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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 330 and 351

RIN 3206-AF00

Advance Certification To Participate in Retraining and Placement Assistance Programs

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing revised interim regulations that provide an "early warning" to employees who an agency expects will be separated by reduction in force. Under these regulations, employees who receive an "early warning" may be eligible to participate in outplacement and retraining programs administered by the Department of Labor and to receive early placement assistance through OPM and agency programs.

DATES: Interim rules effective May 26, 1992. Written comments will be considered if received no later than July 27, 1992.

ADDRESS: Send or deliver written comments to Leonard R. Klein, Associate Director for Career Entry, Office of Personnel Management, room 6F08, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Sylvia Cole on placement programs and Thomas Glennon on reduction in force procedures. Both may be reached on 202-606-0960 (FAX 202-606-0390).

SUPPLEMENTARY INFORMATION: Employees separated from Federal employment by reduction in force (RIF) may be eligible for job assistance under programs operated by their employing agencies, OPM, and the U.S. Department of Labor. The purpose of these regulations is to provide a mechanism to give employees an early warning of expected separation from employment and to enable them to register in these job assistance programs up to 6 months prior to their expected separation. Experience has shown that the earlier individuals are registered in such programs, the greater their chances of finding other employment and avoiding or minimizing any period of unemployment. These regulations address early participation in three programs: The Job Training Partnership Act (JTPA), Reemployment Priority List (RPL), and Displaced Employee Program (DEP).

Job Training Partnership Act

Under title III of the Job Training Partnership Act (29 U.S.C. 1651 *et seq.*), the U.S. Department of Labor provides funding for retraining and readjustment assistance to displaced workers, including Federal employees. Types of assistance available through the Job Training Partnership Act (JTPA) include retraining, counseling, testing, placement assistance, and other support activities. Eligibility under the law is limited to those workers who have been terminated from employment or have received a notice of termination.

With these regulations, OPM is providing a mechanism to enable the Department of Labor to identify those Federal workers who are eligible for JTPA benefits before they receive a specific RIF notice. Competing employees are entitled to receive a specific RIF notice at least 60 days prior to the effective date of a RIF. However, 60 days may be too limited a time for employees to benefit from JTPA services. Because agencies often are unable to give a longer RIF notice, OPM is giving agencies the option of issuing a Certification of Expected Separation to each competing employee who most likely will be separated and will have limited job opportunities in the local area in both the Federal and private sectors. The certification provision is included in a new § 351.807. The Department of Labor intends to issue regulations that will recognize individuals who receive a Certification of Expected Separation as eligible for JTPA benefits. Such certification is not necessary for employees whose eligibility for participation in JTPA programs has been established.

The use of this "early warning" procedure will not in any way relieve an agency of its obligation to provide a proper notice of a RIF action, including a minimum 60 days specific notice, under subpart H of part 351.

Reemployment Priority List (RPL) and Displaced Employee Program (DEP)

Displaced employees are eligible for placement assistance by their own agencies as well as OPM. Through the RPL, agencies give reemployment consideration to their former competitive service employees separated by reduction in force. When filling vacancies, agencies must give RPL registrants priority consideration over certain outside job applicants. This consideration extends to positions in the commuting area where the employees were separated.

OPM, in turn, operates the DEP to give separated employees priority consideration for positions in other Federal agencies. When a DEP participant is referred to an agency through OPM procedures, the agency cannot pass over the individual to reach an outside candidate unless an objection is sustained by OPM.

Previously, participation in both the RPL and DEP was limited to employees who had received a specific RIF notice. Under these regulations, receipt of a Certification of Expected Separation means the employee will be eligible to be enrolled in both the RPL and the DEP. The provision for acceptance of a Certification of Expected Separation is included in § 330.203, § 330.302, § 330.303, and § 330.307.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking because it would be contrary to the public interest to delay access to benefits. Also, pursuant to 5 U.S.C. 553 (d) (3), I find that good cause exists to make this amendment effective in less than 30 days. The delay in the effective date is being waived to give effect to the benefits extended by the amended provisions at the earliest practicable date.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined in E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

List of Subjects

5 CFR Part 330

Armed forces reserves, Government employees.

5 CFR Part 351

Administrative practice and procedure, Government employees.

Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending parts 330 and 351 of title 5, Code of Federal Regulations, as follows:

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

1. The authority citation for part 330 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954–58 Comp., p. 218; § 330.102 also issued under 5 U.S.C. 3327; subpart B also issued under 5 U.S.C. 3315 and 8151; § 330.401 also issued under 5 U.S.C. 3310; subpart H also issued under 5 U.S.C. 8337(h) and 8457(b).

2. In § 330.203, paragraphs (a)(3) and (b) are revised to read as follows:

§ 330.203 Eligibility due to reduction in force.

(a) * * *

(3) Have received a specific notice of separation under part 351 of this chapter, or a Certification of Expected Separation as provided in § 351.807 of this chapter; and

* * * * *

(b) At the time it gives a specific RIF notice of separation or a Certification of Expected Separation, the agency must give each eligible employee information about the RPL, including appeal rights.

* * * * *

3. In § 330.302, paragraph (a) is revised to read as follows:

§ 330.302 OPM Programs.

(a) OPM operates two placement programs—the Interagency Placement Assistance Program (IPAP) and the Displaced Employee Program (DEP). In general, the IPAP provides placement assistance in advance of an impending work force reduction to employees who have been identified by their agencies as surplus. The DEP provides assistance to employees who have received a Certification of Expected Separation or specific notice of separation, or who have been separated.

* * * * *

4. In § 330.303, paragraph (b)(4)(i) is revised to read as follows:

§ 330.303 Eligibility.

* * * * *

(b) * * *

(4) * * *

(i) Has received a specific notice of separation under part 351 of this chapter, or a Certification of Expected Separation as provided in § 351.807 of this chapter.

* * * * *

5. In § 330.307, paragraph (a)(2) and paragraph (b) are revised to read as follows:

§ 330.307 Agency responsibilities.

(a) * * *

(2) Each agency is required to operate a positive placement program for its own surplus and displaced employees. The program must, at a minimum, provide for the establishment and maintenance of a reemployment priority list for the commuting area for those employees who have received a specific notice of separation through reduction in force or a Certification of Expected Separation, as provided for in subpart B of this part. Additionally, each agency is expected to supplement this basic requirement with other forms of appropriate assistance to be given to employees prior to actual separation. An agency's positive placement program should include the following elements:

* * * * *

(b) *Registration of eligible employees.* Agencies are encouraged to participate in the IPAP and inform their employees about this program as soon as they are reasonably sure that separations will be necessary. In accordance with subpart H of part 351 of this chapter, agencies must inform affected employees about the Displaced Employee Program at the same time that Certifications of Expected Separation or specific reduction in force notices are distributed. Agencies are responsible for assisting employees with their registration forms, for completing the information requested on the forms, and for sending them to appropriate offices as instructed by OPM.

* * * * *

PART 351—REDUCTION IN FORCE

6. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 1302, 3502, 3503.

7. A new § 351.807 is added to subpart H, to read as follows:

§ 351.807 Certification of expected separation.

(a) For the purpose of enabling otherwise eligible employees to be considered for eligibility to participate in dislocated worker programs under the Job Training Partnership Act administered by the U.S. Department of Labor, an agency may issue a Certification of Expected Separation to a competing employee who the agency believes, with a reasonable degree of certainty, will be separated from Federal employment by reduction in force procedures under this part. A certification may be issued up to 6 months prior to the effective date of the reduction in force.

(b) This certification may be issued to a competing employee only when the agency determines:

(1) There is a good likelihood the employee will be separated under this part;

(2) Employment opportunities in the same or similar position in the local commuting area are limited or nonexistent;

(3) Placement opportunities within the employee's own or other Federal agencies in the local commuting area are limited or nonexistent, and

(4) If eligible for optional retirement, the employee has not filed a retirement application or otherwise indicated in writing an intent to retire.

(c) A certification is to be addressed to each individual eligible employee and must be signed by an appropriate agency official. A certification must contain the expected date of reduction in force, a statement that each factor in paragraph (b) of this section has been satisfied, and a description of Job Training Partnership Act programs, the Displaced Employee Program, and the Reemployment Priority List.

(d) A certification may not be used to satisfy any of the notice requirements elsewhere in this subpart.

(e) An agency determination of eligibility for certification may not be appealed to OPM or the Merit Systems Protection Board.

(f) An agency also may enroll eligible employees in the Displaced Employee Program and the Reemployment Priority List up to 6 months in advance of a reduction in force. For requirements and

criteria for these programs, see subparts B and C of part 330 of this chapter.

[FR Doc. 92-12168 Filed 5-20-92; 1:03 pm]
BILLING CODE 6325-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, 155, 157, 159, 160, 260, 281, and 375

[Docket No. RM92-4-000; Order No. 542]

Deletion of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction Over Natural Gas

Issued May 1, 1992.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has reviewed its regulations and has determined that certain of its regulations pertaining to natural gas matters are either outdated or serve no useful purpose. Consequently, these outdated or nonessential regulations will be deleted from the Commission's body of natural gas regulations.

EFFECTIVE DATE: This final rule is effective May 1, 1992.

FOR FURTHER INFORMATION CONTACT: James Whitfield, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, (202) 208-0119.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200, or 2400 baud, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Final Rule

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, Jerry J. Langdon and Branko Terzic.

I. Introduction and Background

The Federal Energy Regulatory Commission (Commission) has reviewed its regulations and has determined that certain of its regulations pertaining to natural gas matters are either outdated or serve no useful purpose.[1] Consequently, these outdated or nonessential regulations will be deleted from the Commission's body of natural gas regulations. The regulations to be deleted are located in 18 CFR parts 2, 154, 155, 157, 159, 160, 260, 281, and 375. The list of regulations to be deleted here is not all inclusive, but reflects, in part, the Commission's ongoing review of its regulations to identify other outdated or nonessential regulations for deletion.

The Commission derives its initial responsibility regarding natural gas matters from the Natural Gas Act of 1938, 15 U.S.C. 717-717(w), (NGA).[2] Subsequently, Congress amended the NGA by enacting the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (NGPA). The NGPA was enacted to deal with the shortages of gas occurring in the 1970's in the interstate market. Under the NGPA, certain categories of natural gas were promptly removed from the Commission's jurisdiction, and other categories were gradually removed between 1978 and 1985. The NGPA's removal of the Commission's jurisdiction over certain natural gas eliminated the need for a certificate of public convenience and necessity, and removed regulatory controls over the sale and use of natural gas, the curtailment, or the abandonment service over such gas. More recently, Congress passed the Natural Gas Wellhead Decontrol Act (Decontrol Act).[3] The Decontrol Act is the final step in the wellhead decontrol of natural gas that was initially begun by the NGPA. The Decontrol Act deregulates certain categories of first sales of natural gas prior to January 1, 1993, and provides for the complete decontrol of wellhead prices of first sales by January 1, 1993, by repealing title I of the NGPA. To implement these laws, the Commission has promulgated various regulations. Over the years, many of these regulations, particularly those promulgated under the NGA by the Commission's predecessor agency, the Federal Power Commission, have become obsolete or nonessential, and will be deleted.

II. Public Reporting Burden

The Commission believes that there will be no impact on the public reporting burden from the elimination of these nonessential and outdated regulations. The current reporting burden from Commission information collections arises only from the collection of current data, and the regulations being eliminated do not collect current data. Therefore, the deletion of these regulations will not change current reporting burdens.

III. Discussion

Part 2

Part 2 concerns the Commission's general policy and interpretations regarding the NGA, the National Environmental Policy Act of 1969, the Economic Stabilization Act of 1970 and Executive Orders 11615 and 11627, the NGPA, and the Public Utility Regulatory Policies Act of 1978. The sections of the regulations being deleted here pertain only to the NGA, and are discussed below.

Section 2.53 is a policy statement issued in December of 1947, concerning certificate applications by natural gas companies for construction or operation of facilities. This section warned that appropriate action would be taken against any natural gas company contracting or operating a facility in violation of section 7 of the NGA. This section has been superseded by regulations promulgated under part 157 of the Commission's regulations; accordingly, this section will be deleted.

Section 2.56(a) is a policy statement concerning area rates for natural gas sales by independent producers. Section 2.56a concerns national rates for sale of natural gas from wells commenced on or after January 1, 1973, and certain other sales. Section 2.56b concerns national rates for sales of natural gas from wells started before January 1, 1973. The Commission has not established area or national rates since passage of the NGPA in 1978. The NGPA established maximum lawful prices for all first sales, which reflected the area and

[1] Most of the regulations under the Natural Gas Act at issue here were promulgated by the Federal Energy Regulatory Commission's predecessor, the Federal Power Commission.

[2] In Phillips Petroleum Company v. Wisconsin, 347 U.S. 672 (1954), the Court held that the NGA also extended the Commission's jurisdiction over wellhead prices.

[3] Public Law No. 101-60; 103 Stat. 157 (1989).

national rates established by the Commission. Therefore, these sections are no longer necessary.

Section 2.61 concerns the Commission's statement of policy regarding a pipeline company's natural gas deliverability life. This section defines deliverability life as the number of future years during which a pipeline company can meet its annual requirement for its presently certificated delivery capacity from presently committed sources of supply. This section is not needed because the NGPA and implementing regulations under part 284, resulting in self implementing transportation in connection with wellhead price decontrol, have made this section no longer necessary. Therefore, this section will be removed.

Section 2.63 specifies the refund conditions to be contained in certain temporary certificates of public convenience and necessity issued to independent producers of natural gas in areas where just and reasonable rates have not been established. This section is no longer needed in light of the national rates established by the Commission and the maximum lawful prices in the NGPA. Consequently, this section will be removed.

Section 2.66 provides that gas produced by pipelines or by their affiliates will be priced for ratemaking purposes at the just and reasonable area rate applicable to gas of a vintage corresponding to the date of completion of the first well on the lease. Otherwise, this regulation provides that such gas will be priced at the in-line price, or if there is no in-line price, on the basis of the guideline price, with a few exceptions, as set forth in § 2.56 of the Commission's regulations. Section 2.56 pertains to area price levels for natural gas sales by independent producers. This regulation is no longer necessary because of the NGPA and the Decontrol Act. Under *Public Service Commission of the State of New York* v. *Mid-Louisiana Gas Co.*,[4] pipeline production is entitled to the maximum lawful prices established in the NGPA. Additionally, the Decontrol Act deregulated pipeline production in 1989. Therefore, this section will be deleted.

Section 2.70 provides that jurisdictional pipeline companies shall take all steps necessary for the protection of as reliable and adequate service as present supplies and capacities will permit during the 1971–72 heating season and thereafter, including adequate injection into storage in anticipation of the heating season. Section 2.70 also sets forth procedures for requirement to effectuate the protection of reliable and adequate natural gas service. Section 2.70 has been superseded by regulations contained in subpart I and other subparts of part 284, and will be deleted.

Section 2.75 concerns the optional procedures for certificating new producer sales of natural gas at rates in excess of the national rates. Since the NGPA established maximum lawful prices for all categories of gas, the Commission believes that this regulation should be deleted.

Section 2.77 contains the Commission's policy on expedited producer abandonment. This section has been superseded by the regulations promulgated by Order No. 490,[5] the partial wellhead decontrol by the NGPA, and the additional wellhead decontrol by the Decontrol Act, with complete decontrol being accomplished by January 1, 1993. Therefore, this section will be deleted.

Section 2.79 concerns the Commission's policy with respect to certification of pipeline agreements involving natural gas from both the on-shore and the off-shore domains for use by customers with various priority uses. This regulation was rendered unnecessary by regulations contained in part 284 of the Commission's regulations, and will be removed.

Section 2.90 pertains to the implementation of Executive Order No. 11615. Executive Order No. 11615, which was issued in 1971, concerns the stabilization of prices, rents, wages, and salaries. Section 2.90a concerns implementation of Executive Order No. 11627 and 6 CFR 300.016, which also concern the stabilization of prices, rents, wages, and salaries in connection with the Economic Stabilization Act. Likewise, § 2.90b pertains to the stabilization of prices, rents, wages, and salaries. These sections were promulgated to deal with an economic crisis that occurred during the early 1970's, and are clearly outdated; accordingly, these sections will be deleted.

By means of § 2.91, the Commission announced its intent to establish a fully automated computer regulatory information system to assist it in carrying out its regulatory missions. This regulation is no longer needed because the automated computer regulatory information system is basically in place.

Part 154

Sections 154.81–86 pertain to restatement of schedules filed prior to December 1, 1948. These sections are clearly outdated, and accordingly will be deleted.

Part 155

Part 155 requires pipelines to file direct industrial sales contracts. Part 155 is nonessential. To the extent information is needed under this part, such information can easily be acquired elsewhere. Consequently, part 155 will be deleted.

Part 157

Sections 157.7(b)–(g) set out rules for budget-type certificates for gas supply facilities, miscellaneous rearrangements of facilities, storage facilities, direct sales service and facilities, and field compression facilities. The transactions covered by these sections are covered under subpart F of part 157 of the Commission's regulations. Accordingly, there is no need for these sections, and they will be deleted.

Section 157.42 provides for the exemption of certain emergency gas transportation arrangements during the coal emergency period which began on March 15, 1978 and ended April 30, 1978. Since the emergency period for which the regulation was concerned no longer exists, the need for this regulation ceases; this regulation will also be deleted.

Part 159

Section 159.2 pertains to fees for applications filed prior to November 4, 1985 for the construction or acquisition of facilities pursuant to section 7 of the NGA and the completion of projects before November 4, 1985, involving the construction or acquisition of facilities pursuant to a blanket certificate. Since this regulation applies only to pre-1985 applications or projects, there is no longer any need for this regulation. It will be deleted.

Part 160

Part 160 requires the filing of company procurement policies and procedures. This part is nonessential. Consequently, the Commission believes that this part can be eliminated without affecting the Commission's oversight responsibilities. Accordingly, part 160 will be deleted.

Part 260

Section 260.100 requires a natural gas company to disclose in annual reports to stockholders and others the amount of investment tax credits generated and utilized and a statement of the

[4] 463 U.S. 319 (1983).

[5] Order No. 490, 53 FR 4121, (Feb. 12, 1988); FERC Stats. & Regs. ¶ 30,797 (April 12, 1988); Order No. 490–A, 53 FR 29002 (August 12, 1988); FERC Stats. & Regs. ¶ 30,825 (July 22, 1988).

accounting method used by the company to account for the credit utilized. Since generally accepted accounting principles require the disclosure of such information in annual reports to shareholders, the Commission concludes that this section can be eliminated.

Part 281

Sections 281.101–111 were promulgated to implement section 401 of the NGPA in order to provide that for the period April 1, 1979 through October 31, 1979, the curtailment plans of interstate pipelines, to the practical extent possible, not cause curtailment of deliveries of natural gas for essential agricultural use and for high-priority uses. Clearly, these regulations are no longer applicable, and will accordingly be deleted.

Part 375

Section 375.307(a)(13) delegates authority to the Director of the Office of Pipeline and Producer Regulation or the Director's designee to issue certificates of public convenience and necessity for off-system sales, pursuant to the statement of policy issued April 25, 1983, in Docket No. PL83–2–000. The regulations promulgated by Order No. 636 under part 284 have eliminated the need for § 375.307(a)(13). Therefore, this section will be deleted.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act [6] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission certifies that promulgating this rule does not represent a major Federal action having a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis is required.

V. Information Collection Statement

The Office of Management and Budget's (OMB) regulations [7] require that OMB approve certain information collection requirements imposed by agency rule. Since this order does not impose new regulations and has no impact on current information collections, there is no need to obtain OMB approval as to the deletion of these regulations.

VI. National Environmental Policy Act Statement

The Commission concludes that promulgating this rule does not represent a major Federal action having significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act.[8] This rule is procedural in nature and therefore falls within the categorical exemptions provided in the Commission's regulations.[9] Consequently, neither an environmental impact statement nor an environmental assessment is required.

VII. Effective Date

This rule does not alter the substantive rights or interests of any interested persons, and it merely removes certain outdated and nonessential, natural gas regulations from the Commission's body of regulations. Therefore, prior notice and comment under section 4 of the Administrative Procedure Act (APA) [10] are unnecessary. Since the purpose of this final rule is to remove directives from the Commission's regulations that are no longer pertinent, the Commission finds good cause to make this rule effective immediately upon issuance. This rule therefore is effective May 1, 1992.

List of Subjects

18 CFR Part 2

Administrative practice and procedure, Electric power, Environmental impact statements, Natural gas pipeline, Reporting and recordkeeping requirements.

18 CFR Part 154

Alaska, Natural gas, Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 155

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 159

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 160

Natural Gas, Reporting and recordkeeping requirements.

18 CFR Part 260

Natural Gas, Reporting and recordkeeping requirements.

18 CFR Part 281

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 375

Authority delegations (government agencies), Seals and insignia, Sunshine Act.

In consideration of the foregoing, the Commission amends parts 2, 154, 155, 157, 159, 160, 260, 281, and 375, title 18, chapter I, Code of Federal Regulations as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 792–825r, 2601–2645; and 42 U.S.C. 4321–4361, 7101–7352.

2. Sections 2.53, 2.56, 2.56a, 2.56b, 2.61, 2.63, 2.66, 2.70, 2.75, 2.77, 2.79, 2.90, 2.90a, 2.90b, and 2.91 are removed.

PART 154—RATE SCHEDULES AND TARIFFS

3. The authority citation for part 154 is revised to read as follows:

Authority: 15 U.S.C. 717–717w; 42 U.S.C. 7102–7352; 31 U.S.C. 9701.

§§ 154.81 through 154.86 [Removed]

4. The undesignated center heading and sections 154.81 through 154.86 are removed.

PART 155—CONTRACTS AND RATE SCHEDULES FOR DIRECT INDUSTRIAL SALES

5. Part 155 is removed.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

6. The authority citation for part 157 is revised to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

§ 157.7 [Amended]

7. In § 157.7 paragraphs (b) through (h) are removed.

[6] 5 U.S.C. 601–612.

[7] 5 CFR part 1320.

[8] 52 FR 47897 (Dec.. 17, 1987). III FERC Stats. & Regs. ¶ 30.783 (Dec. 10, 1987).

[9] 18 CFR 380.4(a)(2)(ii).

[10] 5 U.S.C. 553(b).

§ 157.42 [Removed]

7a. Section 157.42 is removed.

PART 159—FEES AND ANNUAL CHARGES UNDER THE NATURAL GAS ACT

8–9. Part 159 is removed.

PART 160—FILING OF COMPANY PROCUREMENT POLICIES AND PRACTICES

10. Part 160 is removed.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

11. The authority citation for part 260 is revised to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

§ 260.100 [Removed]

12. Section 260.100 is removed.

PART 281—NATURAL GAS CURTAILMENT UNDER THE NATURAL GAS POLICY ACT OF 1978; SUBPART A—INTERIM CURTAILMENT RULE

13. The authority citation for part 281 is revised to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 2601–2645; 42 U.S.C. 7101–7352.

§§ 281.101 through 281.111 [Removed]

14. Subpart A, containing sections 281.101 through 281.111, is removed.

PART 375—DELEGATION TO THE DIRECTOR OF THE OFFICE OF PIPELINES AND PRODUCER REGULATION

15. The authority citation for part 375 is revised to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–828r, 791a note, 2601–2645; 42 U.S.C. 7101–7532.

§ 375.30 [Removed]

16. Section 375.307(a)(13) is removed and reserved.

[FR Doc. 92–11933 Filed 5–22–92; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8251]

RIN 1545–AA07

Credit for Increasing Research Activity; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction of final regulations.

SUMMARY: This document contains corrections to final regulations (T.D. 8251), which was published in the Federal Register for Wednesday, May 17, 1989 (54 FR 21203). The final regulations provide rules for the credit for increasing research activities.

EFFECTIVE DATE: May 17, 1989.

FOR FURTHER INFORMATION CONTACT: David S. Hudson, (202) 535–9540 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under section 41 of the Tax Reform Act of 1986. The Tax Reform Act of 1986 extended the credit to amounts paid or incurred before January 1, 1989; amended the definition of qualified research for taxable years beginning after December 31, 1985; provided a separate credit with respect to certain payments to qualified organizations for basic research; and amended the credit provisions in certain other aspects. The Technical and Miscellaneous Revenue Act of 1988 extended the credit to amounts paid or incurred before January 1, 1990.

Need for Correction

As published, there was an omission in the final regulations which may prove to be misleading and is in need of clarification.

Par 1. On page 21203, column 2, in the preamble under the heading "**SUPPLEMENTARY INFORMATION**" and preceding the heading "**Background**" the following language was omitted and should have appeared:

"Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1545–0732. The estimated annual burden per respondent is .25 hours.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503."

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92–12107 Filed 5–22–92; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Department of the Army

36 CFR Part 327

Shoreline Use Permit Conditions; Dock and Mooring Floatation Standards

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule: Correction to 32 CFR Part 327.

SUMMARY: This document amends Condition 14 of Appendix C to 36 CFR 327.30, Shoreline Management Regulation, by correcting dock and mooring buoy floatation standards. This action is necessary because existing standards are incorrect and improperly defined. This change will more clearly explain floatation standards.

EFFECTIVE DATE: June 25, 1992.

ADDRESSES: Office of the Chief of Engineers, ATTN: CECW–ON, 20 Massachusetts Avenue NW, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Darrell Lewis (202) 272–0247.

SUPPLEMENTARY INFORMATION: There is a technical problem in Condition 14 of appendix C to 327.30. There is no extruded polystyrene or expanded polystyrene material that is not subject to deterioration upon contact with petroleum products. The term "protective coating" is not defined and is therefore open to question. This correction deletes the requirement pertaining to petroleum products and defines a standard protective coating, when one is necessary, as well as providing density and volume criteria. These changes are based on the results of a study of floatation materials conducted by the Corps' Waterway Experiment Station.

List of Subjects in 36 CFR Part 327

Public lands, Water Resources, Natural resources, Resource management, Penalties, Recreation and recreation areas.

PART 327—[AMENDED]

For the reasons set forth in the preamble, 36 CFR part 327 is amended as follows:

1. The authority citation for part 327 continues to read as follows:

Authority: The Rivers and Harbors Act of 1894, as amended and supplemented (33 U.S.C., 1).

2. In appendix C to § 327.30, paragraph 14, is revised to read as follows:

APPENDIX C TO § 327.30—SHORELINE USE PERMIT CONDITIONS

* * * * *

14. On all new docks and boat mooring buoys, floatation shall be of materials which will not become waterlogged (not over 1½ percent by volume ASIM), is resistant to damage by animals, and will not sink or contaminate the water if punctured. No metal covered or injected drum floatation will be allowed. Foam bead floatation that is not subject to deterioration through loss of beads, meets the above criteria, and has a minimum density of 1.2 lb/cu ft is authorized. Foam bead floatation with a density of 1.2 lb/cu ft, but does not otherwise meet the above criteria is authorized provided it is encased in an approved protective coating which enables it to meet the specifications above. An approved coating is defined as warranted by the manufacturer for a period of at least eight years against cracking, peeling, sloughing and deterioration from ultra violet rays, while retaining its resiliency against ice and bumps by watercraft. Existing floatation will be authorized until it has severely deteriorated and is no longer serviceable or capable of supporting the structure, at which time it should be replaced with approved floatation.

* * * * *

Kenneth L. Denton,
Army Federal Register Liaison Officer.

[FR Doc. 92-11912 Filed 5-22-92; 8:45 am]
BILLING CODE 3710-08-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101-26 and 101-33

[FPMR Amendment E-271]

Procurement of Natural Gas

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation provides for the procurement by civilian agencies of natural gas from source suppliers. The regulation is necessary to minimize expenditures for the procurement of natural gas.

EFFECTIVE DATE: May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. John M. Boughton, Regulations Management Staff (703-305-7525).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Parts 101-26 and 101-33

Government property management, Natural gas.

For the reasons set forth in the preamble, 41 CFR parts 101-26 and 101-33 are amended as follows:

1. The authority citation for parts 101-26 and 101-33 continues to read as follows:

Authority: Sec. 205(c) 63 Stat. 390; 40 U.S.C. 486(c).

PART 101-26—[AMENDED]

Subpart 101-26.6—Procurement Sources Other Than GSA

2. Section 101-26.602 is amended by revising paragraph (a) to read as follows:

§ 101-26.602 Fuels and packaged petroleum products obtained from or through the Defense Logistics Agency.

(a) Agencies shall be governed by the provisions of this § 101-26.602 in satisfying requirements for coal, natural gas from sources other than a public utility, petroleum fuels, and certain petroleum products from or through the Defense Logistics Agency.

* * * * *

3. Section 101-26.602-5 is added as follows:

§ 101-26.602-5 Procurement of natural gas from the wellhead and other supply sources.

(a) Natural gas requirements shall be satisfied from sources that are most advantageous to the Government in terms of economy, efficiency, and service. A cost/benefit analysis shall be required by the procuring Federal agency if the natural gas procurements at a facility exceed 20,000 mcf annually and the facility can accept interruptible service. If sources other than the local public utility are the most advantageous to the Government, agency requirements may be satisfied through the Defense Logistics Agency (DLA). Arrangements for DLA procurements on behalf of civilian agencies shall be made through GSA. GSA will forward agency requests to DLA after assuring that necessary requirements data are included.

(b) Agency requests for DLA natural gas shall be forwarded to the Public Utilities Division (PPU), Office of Procurement, General Services Administration, 18th and F Streets, NW., Washington, DC 20405. The requests shall include for each facility for which natural gas is required: The name, address, and telephone number of the requesting agency representative; the name, address, and telephone number of the facility representative; the name of the local distribution company; the expected usage (in mcf) at the facility for each month during the next year of service; the expected peak day usage in mcf at the facility; a statement of funds availability; and documentation of the cost analysis performed that justifies the alternative source procurement.

(c) Agency requests for procurements by DLA shall be forwarded to GSA at the time the information specified in § 101-26.602-5(b) becomes available.

(d) Agencies should anticipate that actions required by DLA to establish a natural gas contract will take 5 to 7 months.

PART 101-33—PUBLIC UTILITIES

Subpart 101-33.0—General Provisions

4. Section 101-33.002 is amended by adding paragraph (d) to read as follows:

§ 101-33.002 Applicability.

* * * * *

(d) The provisions of this part 101-33 do not apply to the procurement of natural gas from source suppliers; i.e., suppliers other than a local public utility. Procurement of natural gas from source suppliers is covered in § 101-26.602-5.

5. Section 101-33.003 is revised to read as follows:

§ 101-33.003 Submission of information.

All information required under this part 101-33, except where otherwise specified, shall be addressed to the General Services Administration, Public Buildings Service, Public Utilities Division (PPU), Washington, DC 20405.

Dated: March 4, 1992.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 92-12114 Filed 5-22-92; 8:45 am]

BILLING CODE 6820-24-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-20; RM-7645]

Radio Broadcasting Services; Shingle Springs and Quincy, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 270B for Channel 270B1 at Shingle Springs, California, and modifies the license for Station KFIA-FM to specify operation on the higher powered channel, as requested by Olympic Broadcasters, Inc., successor-in-interest to Lobster Communications Corporation. Additionally, in order to accommodate the modification at Shingle Springs, Channel 271A is substituted for Channel 271C2 at Quincy, California, and the license issued to Olympic Broadcasters, Inc., for Station KQNC (FM) is modified accordingly, as requested. See 57 FR 5870, February 18, 1992. Coordinates for Channel 270B at Shingle Springs are 38-53-31 and 120-57-53. Coordinates for Channel 271A at Quincy are 40-03-36 and 120-54-46. With this action, the proceeding is terminated.

EFFECTIVE DATE: July 6, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-20, adopted May 12, 1992, and released May 19, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 271C2 and adding Channel 271A at Quincy; and by removing Channel 270B1 and adding Channel 270B at Shingle Springs.

Federal Communications Commission.

Michael C. Ruger,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-12102 Filed 5-22-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-31; RM-7908]

Radio Broadcasting Services; East Ridge, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Sattler Broadcasting, Inc., licensee of Station WJRX-FM, Channel 300A, East Ridge, Tennessee, substitutes Channel 300C3 for Channel 300A at East Ridge, Tennessee, and modifies WJRX-FM's license to specify operation on the higher powered channel. See 57 FR 07902, March 5, 1992. Channel 300C3 can be allotted to East Ridge in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.8 kilometers (13.6 miles) northwest to accommodate Sattler's desired site. The coordinates for Channel 300C3 at East Ridge are North Latitude 35-06-31 and West Longitude 85-24-28. With this action, this proceeding is terminated.

EFFECTIVE DATE: July 6, 1992.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-31, adopted May 7, 1992, and released May 19, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing Channel 300A and adding Channel 300C3 at East Ridge.

Federal Communications Commission.

Michael C. Ruger,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-12096 Filed 5-22-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

RIN 1018-AB30

Export of American Alligators Taken in 1992-1994 Harvest Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) regulates international trade in certain animal and plant species. As a general rule, exports of animals and plants listed on appendix II of the Convention may occur only if a Scientific Authority has advised a permit-issuing Management Authority that such exports will not be detrimental to the survival of the species, and if the Management Authority is satisfied that the animals or plants were not obtained in violation of laws enacted for their protection. Based on documentation presented for consideration by the Convention Parties in 1983, the U.S. Fish and Wildlife Service (Service) has determined that the American alligator is listed on appendix II for reasons of similarity in appearance under article II.2(b) of the Convention as well as the potential threat to the species survival under Convention article II.2(a).

On September 25, 1991, the Service published a notice (56 FR 48512) proposing to grant export approval for legally taken American alligators, alligator meat, parts, and products from previously approved States, for the 1992–1994 harvest seasons.

This document announces the final findings and rule by the U.S. Scientific Authority and Management Authority that approves the export of alligators harvested during the 1992–1994 taking seasons from certain States previously approved for such export for the 1989–1991 harvest seasons. This rule also stipulates that management procedures previously established for this species be continued.

EFFECTIVE DATE: May 26, 1992.

ADDRESSES: Please send correspondence concerning this rule to the Office of Management Authority; U.S. Fish and Wildlife Service, 4401 N. Fairfax Dr., rm. 432, Arlington, Virginia 22203. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of Management Authority, 4401 North Fairfax Drive, rm. 432, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Scientific Authority: Dr. Charles W. Dane, Office of Scientific Authority, Mail Stop: ARLSQ, rm. 725, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (703) 358–1708.

Management Authority: Mr. Lawrence G. Kline, Office of Management Authority, U.S. Fish and Wildlife Service, room 432, 4401 N. Fairfax Drive, Arlington, VA. 22203, telephone (703) 358–2095.

SUPPLEMENTARY INFORMATION:

Beginning in 1977, the Service has employed the rulemaking process to develop and issue decisions on the export of certain species under the Convention. The reason for this approach is that it is more effective to issue general decisions on the export of all specimens harvested in a given State and season than to issue such decisions separately for each permit application. This is true especially for Convention Appendix II species that are frequently exported, such as the American alligator. On August 14, 1989, (54 FR 33231) the Service published a rule granting export approval for American alligators (*Alligator mississippiensis*) from specified States for the 1989–1991 harvest seasons.

On September 25, 1991, the Service published a notice (56 FR 48512) proposing to continue such export approval for the 1992–1994 harvest seasons from these same States.

The purpose of this announcement and rule is to allow the export of legally taken American alligators (hides, meat, parts, and products) for the 1992–1994 harvest years from previously approved States.

Scientific Authority Findings

Article IV of CITES requires that an export permit for any specimen of a species included in appendix II shall only be granted when certain findings have been made by the Scientific Authority and Management Authority of the exporting country. The Scientific Authority must advise "that such export will not be detrimental to the survival of that species" before an export permit can be granted by the Management Authority.

The American alligator is listed in appendix II to respond both to problems of potential threat to the survival of American alligators (Convention Article II.2(a)) and its similarity in appearance to other crocodilians that are threatened with possible extinction (Convention Article II.2(b)).

The marking of hides with specified tags, the marking and documentation of shipments of meat and parts, and the issuance of export permits specifically for American alligator parts and products is considered sufficient to address the issue of identification due to the similarity in appearance between American alligators and other listed species (see Management Authority findings for export program and tag specifications).

Because the alligator is listed partly due to the potential threat to its survival, the Service must determine that allowing exports and thereby stimulating harvest will not be detrimental to the survival of the species itself.

Guidelines developed for Scientific Authority advice on exports of American alligators under the provisions of Convention Article II.2(a), are summarized as follows:

A. Minimum requirements for biological information:

(1) Information on the condition of the population, including trends (the method of determination to be a matter of State choice), and population estimates where such information is available;

(2) Information on total harvest of the species;

(3) Information on distribution of harvest; and

(4) Habitat evaluation.

B. Minimum requirements for a management program:

(1) There should be a controlled harvest, methods and seasons to be a matter of choice by the State of origin;

(2) All hides, meat, and parts should be registered and marked; and,

(3) Harvest level objectives should be determined annually by the State of origin.

The Service's Office of Scientific Authority finds that current information on populations status, management, and harvest levels relative to all the States in question, fully support a finding that the export of alligators taken in accordance with Service-approved State regulations during the 1992–1994 harvest seasons will not be detrimental to the survival of the species in the States receiving export approval. Tagging of hides and the sealing and marking of meat and parts by Service-approved States of origin, and documentation of shipments by the U.S. Management Authority provide assurance that export will not reduce the effectiveness of the Convention in controlling trade in other species of crocodilians. Documents containing information that provided the basis for the Service's findings are available for public inspection at the office of Scientific Authority (address given above).

Management Authority Findings

Exports of appendix II species are to be allowed under the Convention only if the Management Authority is satisfied that the speciemens were not obtained in contravention of laws enacted for the protection of the involved species. The Service, therefore, must be satisfied that alligator hides, meat, parts, or products were not obtained in violation of State or Federal law in order to allow export. Evidence of legal taking for American alligator is provided by Service-approved State hide tagging and container sealing and marking programs. The Service annually contracts for the manufacture and delivery of special Convention animal hide tags for export-approved States to apply to legally taken animal hides.

In a **Federal Register** notice, published on April 24, 1986 (51 FR 15548), the Service announced the introduction, use, and protection of a US-CITES tag symbol. This symbol appears on every Service-supplied export tag to provide further evidence of legal export for certain Convention appendix II listed species.

Guidelines developed for Management Authority findings on State American alligator export programs, under provisions of Convention Article IV.2 (b), are summarized as follows:

(1) Current State alligator trapping and tagging, meat and parts processing, and shipping regulations must be on file

with the Office of Management Authority (OMA);

(2) Sample reporting forms, export tag, meat and parts packing seal, parts tag, and description of standard meat/parts container must be on file with OMA;

(3) The export tag must be durable, permanently locking, and must show U.S.-CITES logo, State of origin, season of take, species, and be serially unique;

(4) The export tag, meat seal, and parts tag must be applied by the State to all hides, meat, or parts, within a minimum time after take or processing, as specified by State law, and such time should be as short as possible to minimize movement of untagged hides, meat, or parts;

(5) The tags or seals must be permanently attached to the hide or container, as mandated by Service-approved State programs;

(6) All alligator harvesters and processors must be registered by the State of origin;

(7) All hide, meat, and parts dealers must be registered by the State of origin;

(8) All State-registered alligator harvesters, processors, and dealers must make available their alligator harvest and commerce data to the State on at least an annual basis, as specified by the State;

(9) State-registered alligator dealers and licensed harvesters authorized by the State to attach export tags to the hides, in a program approved by the Service, must account for all tags received and must return unused tags to the State within a specified time after the harvest period closes;

(10) Fully manufactured alligator hide products may be exported from the United States when the State-applied Convention export tags, removed from hides contained in the manufactured products, are surrendered to the Service prior to export; and

(11) Alligator meat and parts may be exported from the United States in State-standard containers that are sealed and marked in accordance with the State's export program, as approved by the Service.

The Service's Office of Management Authority has reviewed the alligator export tagging programs of all previously approved States and has found that these programs fully meet the guidelines listed above. Documents containing information that provided the basis for the Service's findings are available for public inspection at the Office of Management Authority (address given above).

The Service hereby approves exports of 1992–1994 harvested alligators, hides, meat and parts in the States receiving export approval on the grounds that both Scientific Authority and Management Authority export requirements are satisfied.

Multi-year Findings

The Service has monitored existing State programs for the American alligator in the previously approved States for many years and expects that these States will continue to satisfy Convention requirements. To ensure that Service-approved States maintain successful export programs and that export is not detrimental to the survival of the species, the Service plans to continue annual monitoring of State management and export marking programs through evaluation of State program information and export reports from U.S. ports. Annual State program reports must be available to the Office of the Management Authority (address given above) no later than May 31 of each year.

States seeking for the first time to establish a regular harvest program for alligators should begin working with the Service early enough in order to develop their alligator programs and then apply for Convention export approval no later than January 2 of the year they plan to initiate such a program.

This rule extends export approval for the same States that were approved for export in previous years and extends this approval for the 1992–1994 harvest seasons.

The findings announced in this notice are effective immediately. It is the Service's opinion that a delay in the effective date of the regulations after this final rulemaking is published could adversely impact the species by preventing the international marketing of the hides and meat (where commercial harvest is an important part of the State conservation programs) thereby reducing the incentive for takers or dealers to comply with State requirements in the approved States. The Service, therefore, finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, for these regulations to take effect immediately under 5 U.S.C. 553(d)(1).

Public Comment

The Curator of Animals with the New York Zoological Society commented that while he supported the proposed rule in general he believed the tagging of skins to be insufficient to adequately protect the species. His concern was that alligator skins that are tanned outside the U.S. no longer need to have tags attached to be imported back into the U.S. He stated that he had heard rumors that some illegally acquired American alligators are leaving the U.S., although there does not appear to be evidence of a significant illegal trade in their skins.

The Service believes that since wild American alligator populations are increasing throughout the range of the species and evidence of significant illegal trade is lacking, the present tagging system is adequately protecting the species.

This rule is issued under authority of the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq.*). The primary author is Mr. Lawrence G. Kline, Office of Management of Authority, U.S. Fish and Wildlife Service.

Note—The Department had previously determined that the export of alligators from various States taken in the 1986–1988 harvest seasons was not a major Federal action that would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act, therefore, the preparation of an Environmental Impact Statement was not required (49 FR 1058). Because these final findings do not significantly differ from the prior export findings, the previous determination not to prepare an Environmental Impact Statement on export of alligators taken during the 1986–1988 harvest seasons in certain States (51 FR 31130) remains appropriate. The Department had also previously determined that such harvest was not a major rule under Executive Order 12291 and did not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). Because the existing rule treats exports on a State-by-State basis and proposes to approve export in accordance with a State management/export program, the rule will have little effect on small entities in and of itself. This rule does not contain any information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 23

Endangered and threatened Species, Exports, Imports, Treaties.

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for 50 CFR part 23 is revised to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U.ST. 108; and Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.)*

Subpart F—Export of Certain Species

2. In § 23.57 revise paragraphs (a) and (b)(1) to read as follows:

§ 23.57 American alligator (Alligator Mississippiensis).

* * * * *

(a) 1979–1994 harvests (wild and captive bred for each year unless noted).

	AL	FL	GA	LA	MS	SC	TX
1979	–	+	–	+	–	–	–
1980	–	+	–	+	–	–	–
1981	–	+	–	+	–	–	–
1982	–	+	–	+	–	–	–
1983	–	+	–	+	–	–	–
1984	–	+	–	+	–	–	+
1985	–	+	–	+	–	–	+
1986	–	+	–	+	–	–	+
1987	–	+	–	+	–	–	+
1988	–	+	+	+	–	+	+
1989	+	+	+	+	+	+	+
1990	+	+	+	+	+	+	+
1991	+	+	+	+	+	+	+
1992	+	+	+	+	+	+	+
1993	+	+	+	+	+	+	+
1994	+	+	+	+	+	+	+

+ Export approved, – export not approved.

(b) Condition on export: (1) Each hide must be clearly identified by a durable, permanently locking Convention export tag bearing a legend showing the U.S. CITES logo, State of origin, species, season of take, and a unique serial number. The tag must be inserted into the hide and locked in place under conditions approved by the Service.

* * * * *

Dated: February 12, 1992.

Richard N. Smith,

Director, Fish and Wildlife Service.

[FR Doc. 92–12153 Filed 5–22–92; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 57, No. 101
Tuesday, May 26, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1703

Distance Learning and Medical Link Grant Program

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to add regulations for a program that would provide grants for distance learning and medical link projects benefiting rural areas. The regulation is necessary to implement a rural development program created by the Rural Economic Development Act of 1990. The program would provide grants to rural community facilities, such as schools, hospitals, and medical centers, to encourage, improve, and make affordable the use of advanced telecommunications and computer networks to provide educational and medical benefits to people living in rural areas and to improve rural opportunities. The regulation would establish REA's policy, the method of selecting projects to receive grants and allocating the available funds, the method of determining the beneficiaries of the program, the requirements for the application to be submitted to REA, the method of notifying potential applicants of maximum and minimum amounts of grant funds that would be considered for a single application, and the requirements for qualifying for expedited telephone loan consideration and determination.

DATES: Written comments must be received by REA or carry a postmark or equivalent not later than June 25, 1992. REA requires an original and three copies of all comments (7 CFR part 1700).

ADDRESSES: Submit written comments to Blaine D. Stockton, Jr., Assistant Administrator, Economic Development and Technical Services, Rural Electrification Administration, room 4025, South Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250–1500. The public may inspect written comments on this proposed rule in room 2238 of the South Building between 8:30 a.m. and 5 p.m. on official workdays (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Blaine D. Stockton, Jr., Assistant Administrator, Economic Development and Technical Services, Rural Electrification Administration, telephone number (202) 720–9552.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation as established by the Order.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If adopted, this proposed rule: (1) Will not preempt any State or local laws, regulations, or policies; (2) Will not have any retroactive effect; and (3) Will not require administrative proceedings before parties may file suit challenging the provisions of this rule.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, the Administrator certifies that this action would not have a significant economic impact on a substantial number of small entities because the action will not affect a significant number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implements the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504 of that Act, the information collection and recordkeeping requirements contained in this proposed rule have been submitted to OMB for review. Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, room 3201, NEOB, Washington, DC 20503.

National Environmental Policy Act Certification

The Administrator has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require the preparation of an environmental impact statement or environmental assessment.

Intergovernmental Review

The Administrator has determined that this program is subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials.

Catalog of Federal Domestic Assistance

This program is not yet listed in the Catalog of Federal Domestic Assistance.

Background

REA is proposing regulations for a new program that would provide grant funds for distance learning and medical link projects to provide educational and medical benefits to people living in rural areas. This action is necessary to comply with title XXIII, subtitle D, chapter 1 of the Rural Economic Development Act of 1990 (the Act) (7 U.S.C. 950aaa *et seq.*). The purpose of the Act is to provide incentives for local telephone exchange carriers, rural community facilities and rural residents to improve the quality of phone service, to provide access to advanced telecommunications services and computer networks and to improve rural opportunities. It is believed that the incentives of this program will contribute to achieving these Federal goals. Furthermore, a goal of the Federal Government is to make affordable advanced telecommunications available to rural residents, including services such as reliable facsimile document and data transmission, multifrequency tone signaling services, 911 emergency service with automatic number identification, interactive audio and visual transmissions, voice mail services designed to record, store, and retrieve voice messages, and other advanced telecommunications services.

REA is proposing sections covering the purpose, policy, eligibility, grant purposes, and selection criteria that would be useful in more fully explaining

the intent of this program and would notify potential applicants of factors that would guide the Administrator of REA in administering this program. REA intends for the projects financed with the limited funds available for this program to serve as pilot projects for the rural areas of the Nation.

Entities eligible to apply for grants under this program include rural schools and medical providers that operate rural community facilities. It should be noted that section 2333(6) of the Act (7 U.S.C. 950aaa *et seq.*) defines the term "end user" to mean "rural community facilities or persons associated with those facilities" who participate in this program. For example, a rural community hospital that uses a medical link to an urban teaching hospital to speed up diagnostic analysis would be an "end user" under the Act. Likewise, a student in a rural school using interactive video equipment would be an "end user." However, unlike the hospital in the first example, in a sense, the student is both the end user of the equipment and a person associated with the facility participating in this program. Section 2335(a)(2) authorizes the Administrator to make grants to "end users." Thus, a literal reading of the Act could suggest that REA would make grants to the students directly instead of to their schools. REA notes that in section 2335(a)(1), the paragraph immediately preceding the directive to the Administrator to make grants, Congress declared its intended purpose as being:

> *** one to encourage and improve the use of telecommunications, computer networks, and advanced technologies, by persons associated with end users, including students and teachers, medical professionals, small business, and other residents living in rural areas associated with rural community facilities in rural areas.

REA interprets this language as expressing a Congressional intention that persons derive benefits under the program not by receiving grants directly, but through their association with end users that are community facilities participating in the program. Thus, REA would award grants under this program only to eligible organizations, a defined term under these proposed regulations. REA also believes this approach would be more effective than the alternative approach.

Although the term "rural" is used over 25 times in the Act (7 U.S.C. 950aaa *et seq.*), it is not defined. REA considered using the term as it is defined in the RE Act (7 U.S.C. 901 *et seq.*), but declined since REA could find no support for such an approach in the Act itself or in its legislative history. REA notes by way of contrast, the definition of the term "telephone service" is incorporated into sections 2334 and 2335 of the Act by explicit reference to section 203(a) of the RE Act. REA also considered using the term as recently defined in connection with loans and guarantees for rural electrification (see 7 CFR 1710.2) published January 9, 1992, at 57 FR 1055. Since this definition was based on an interpretation of the RE Act, it suffered from the same deficiency as the approach of borrowing the definition from the RE Act.

Congress was not using "rural" in any specialized sense and accordingly, REA is using it in its conventional sense. In Kenaitze Indian Tribe v. State of Alaska, 860 F2d 312, 316–317 (1988), a case arising under the Alaska National Interest Lands Conservation Act, the United States Court of Appeals for the Ninth Circuit considered what Congress means when it uses the term "rural" in a statute without defining it:

> The term rural is not difficult to understand; it is not a term of art. It is a standard word in the English language commonly understood to refer to areas of the country that are sparsely populated, where the economy centers on agriculture and ranching. See Webster's Third New International Dictionary 1990 (1981). More broadly, rural is the antonym of urban and includes all areas in between cities and towns of a particular size. See id.
>
> The term has been used by the Federal Government in a variety of other contexts, all of them consistent with conventional understanding. The U.S. Census Bureau divides the population into two categories. The urban population consists of people living in communities of 2,500 or more, while the rural population comprises everyone else.

REA proposes to define "rural" in a manner consistent with the court's language. It should be noted, however, that REA is not requiring that funds be spent in rural areas only. Such an approach would be overly restrictive and counterproductive. To illustrate, a medical link to serve the rural population may require a satellite uplink from an urban teaching hospital and a satellite downlink at the rural community hospital. REA believes that, when appropriate, it could award a grant to the rural facility to finance both links even though some of the equipment would be located in an urban area. In other words, it is the site of the ultimate beneficiary, not the equipment, that is crucial in determining whether a project will primarily serve residents of rural areas.

The term "distance learning" is used in the heading of the chapter for the sections of the Act (7 U.S.C. 950aaa *et seq.*) covered by this proposed subpart. The term is also used frequently in the legislative history. However, the term is not defined or used in the Act itself. Nevertheless, REA believes that the term is a useful label for describing projects that depend on advanced telecommunications technology to improve educational opportunities for rural students. Accordingly, REA proposes to define "distance learning" in these regulations. As proposed, the definition encompasses two related but distinct conceptual approaches to distance learning. Both alternatives find support in the legislative history, and there does not appear to be any Congressional intention to prefer one over the other. Under the first alternative, "distance learning" involves the use of advanced telecommunications technology to allow rural students access to educational programs, instruction, or information originating in urban areas. Under the second alternative, the telecommunications link is intended to allow rural schools to electronically pool teacher resources in order to make advanced subject offerings more readily available to rural students. An individual rural school might not have sufficient economic resources or demand to offer courses in sophisticated subjects such as advance calculus, physics or foreign languages even though some students need these courses to achieve their fullest potentials. With technology funded through this program, it becomes feasible for several rural schools to share the expenses of a physics teacher, for example, and thus students attending schools that could not justify or afford an individual physics teacher would not be denied the opportunity to study physics. If the physics instruction in the preceding example originated in an urban area instead of in a rural area, the project would be covered by the first alternative. This program is not intended to assist projects whose object is to provide telecommunication links between teachers and students who are located at the same facility. The program would finance projects that will link rural schools to other rural schools as well provide the link for rural schools to access educational services outside of rural areas.

REA proposes to fund up to 80 percent of any project selected, and require at least a 20 percent matching cash contribution from the applicant. While the legislation (7 U.S.C. 950aaa *et seq.*) provides that grants of up to 100 percent of a project cost may be funded, REA has determined that based upon the great need for these types of projects nationwide and the limited amount of

grant funds available, limiting the amount of grant participation to 80 percent would allow REA to fund more projects. REA also believes that applicants would be able to provide at least 20 percent of the project cost. By sharing in the project cost, they would strive to select the most cost-effective means of providing the proposed telecommunications program.

REA also proposes to establish a maximum grant amount to be not more than 10 percent of the appropriated funds available during the fiscal year in which the grant is received. REA has determined that this would result in funding more projects nationwide and is the most effective use of limited funds available for the program. These requirements are considered necessary to stimulate participation in the program from other funding sources and to allow program grant funds to reach a broader range of projects to support the delivery of advanced communication and information technology in rural areas. REA proposes $10,000 as the minimum amount of a grant application. This minimum level is based on the minimum costs of a project that would generally be considered necessary to accomplish the purposes of this program. In addition, REA considered the both the administrative costs to the agency of processing many small applications and the costs to a recipient of processing a grant application and administering a grant award. Persons and organizations commenting on this proposed rule may wish to discuss whether the minimum amount of a grant application should be smaller than $10,000.

REA is proposing to clarify the requirements of the "Comprehensive Rural Telecommunications Plan" which is required in the statute (7 U.S.C. 950aaa *et seq.*). REA has interpreted this statute to provide that funds would be available to fund the needs of the project contained in such plan but not to fund the preparation of the plan itself. The basis for this interpretation is in the statutory requirement that an applicant for a grant must provide a Comprehensive Rural Telecommunications Plan. The statute further describes what must be contained in the plan. REA has expanded the items contained in the plan to clarify that the plan covers the specific project proposed in the application for grant funds, and information on supplemental funds or other requirements necessary for a successful project. REA believes this approach would allow applicants to prepare an affordable plan while meeting the intent of the statute.

REA is proposing that applications be processed on a competitive basis using the grant selection criteria set forth in the proposed rule. The grant selection criteria in the proposed rule support the statutory requirements that priority be given to projects that benefit end users in rural areas that are in most need of enhanced communications to carry out the purposes of this program, to applicants that demonstrate the need for grant assistance, taking into consideration the relative needs of all applicants, the needs of the affected rural communities, and the financial ability of the applicant to otherwise secure or create the project. The proposed criteria are grouped into four major areas of consideration; project worthiness, financial capabilities and the needs of the applicant, need of the affected rural communities for the proposed project, and other factors determined appropriate by the Administrator. As part of the consideration of community need, REA has proposed the use of per capita personal income, population change, and population density because data are readily available and easily verifiable from recognized sources. Under § 1703.118(c), the proposed rule contains language allowing REA to use the region or data it considers most appropriate if "county" data are unavailable for a particular area. For example, data might not be compiled on a county basis for an area of a State or data are complied on the equivalent of a county in a State, such as a parish. Persons and organizations may wish to comment on the proposed selection criteria, especially factors such as the manner in which REA would evaluate the benefits and costs of the project.

The proposed rule sets forth administrative procedures for application and grant processing that are based on government-wide grant regulations (7 CFR parts 3015 and 3016). Persons and organizations commenting on this proposed rule may wish to discuss areas such as the disbursement of grant funds. Finally, in § 1703.140, REA proposes requirements for telephone loan applications and advances that it would process in an expeditious manner to furnish REA financing for elements of the telecommunications project that would be provided by the local telephone exchange carrier.

REA requests any information on other programs, whether local, state or Federal, that provide funds to projects similar to those that would be financed through this program. REA would also appreciate any information on existing distance learning or medical link projects in rural areas.

List of Subjects in 7 CFR Part 1703

Community development, Grant programs—education, Grant programs—health care, Grant programs—housing and community development, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, chapter XVII of title 7 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1703—RURAL DEVELOPMENT

1. The authority citation for 7 CFR part 1703 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*; 7 U.S.C. 950aaa *et seq.*

2. Subpart D of part 1703 is added to read as follows:

Subpart D—Distance Learning and Medical Link Grant Program

Sec.

Subpart D—Distance Learning and Medical Link Grant Program

§ 1703.100 Purpose.

The grants provided under this subpart are to encourage, improve, and make affordable the use of advanced telecommunications, computer networks, and related advanced

technologies to provide educational and medical benefits through distance learning and medical link projects to people living in rural areas and to improve rural opportunities.

§ 1703.101 Policy.

(a) REA recognizes that the transmission of communications and information is a vital component of the infrastructure of rural areas and is necessary to promote rural development. Enhancing communication and information transmission by making affordable advanced telecommunications, computer networks, and related advanced technologies more widely available in rural areas will improve rural opportunities, promote rural economic growth, and enhance the quality of life of rural residents. To further this objective, REA will award grants under this subpart to distance learning and medical link projects that will improve the access of people residing in rural areas to improved educational, training, and medical services, and to opportunities that rely on advanced communication and information technologies to provide such services.

(b) In providing assistance under this subpart, REA will give priority to rural areas that it believes have the greatest need of enhanced communications. REA believes that generally the need is greatest in the most sparsely populated rural areas and in rural areas that are experiencing economic hardship.

(c) REA believes that the residents of rural areas and their local institutions which serve them can best determine what are the most appropriate communications or information systems for use in their respective communities. Therefore, in administering this subpart, REA will not favor one particular technology over another. However, REA does believe that it is generally desirable to use technology that uses an open network architecture that would incidentally allow other providers or developers to purchase the elemental functions so other users, in addition to educational and medical users, may benefit from any transmission facilities receiving funding under this subpart. In addition, REA believes it is generally desirable for the project to use products and technologies that are considered open systems.

(d) Applicants are encouraged to promote projects that:

(1) Are based on sound economic and financial analysis;

(2) Take a long-term perspective; and

(3) Are uniquely suited to primarily benefit rural areas.

(e) REA electric and telephone borrowers are encouraged to cooperate with each other and with applicants and end users in promoting the program being implemented under this subpart.

(f) REA staff will make diligent efforts to inform potential applicants in rural areas of the program being implemented under this subpart.

§ 1703.102 Definitions.

Act—Title XXIII, subtitle D, chapter 1, of the Rural Economic Development Act of 1990 (7 U.S.C 950aaa *et seq.*).

Administrator—the Administrator of the Rural Electrification Administration or his or her designee.

Applicant—an eligible organization which applies for a grant under this subpart.

Approved purpose—a purpose that REA has specifically approved in the letter of agreement and scope of work covering the use of REA grant funds provided to the grantee.

Borrower—an entity that has outstanding electric or telephone REA and/or Rural Telephone Bank loans or loan guarantees under the provisions of the RE Act.

Communication satellite ground station complex—includes transmitters, receivers, and communications antennas at the earth station site together with the interconnecting terrestrial transmission facilities (cables, line, or microwave facilities) and modulating and demodulating equipment necessary for processing traffic received from the terrestrial distribution system prior to transmission via satellite and the traffic received from the satellite prior to transfer to terrestrial distribution systems.

Computer networks—computer hardware and software, terminals, signal conversion equipment including both modulators and demodulators, or related devices, used to communicate with other computers to process and exchange data through a telecommunication network in which signals are generated, modified, or prepared for transmission, or received, via telecommunications terminal equipment and telecommunications transmission facilities.

Data terminal equipment—equipment that converts user information into data signals for transmission, or reconverts the received data signals into user information, and is normally found on the terminal of a circuit and on the premises of the end user.

Demonstration project—one which the applicant agrees in writing to:

(1) Provide REA, if requested, with detailed information on the process used to organize and operate the project;

(2) Permit REA and REA's guests to make reasonable visits to the project; and

(3) Honor any other reasonable REA request to disseminate information concerning the project. Examples of information include a description of the process of incorporation, types of financing obtained, permits required by governments, amount of time required for various stages of the project, sources of technical assistance from government programs, private foundations or trade organizations, type of equipment used for the project, any experiences or lessons that the applicant will share with the public and other information which will assist REA in promoting rural opportunities to improve the use of telecommunications, computer networks, and related advanced technologies. REA will not require the disclosure of trade secrets or proprietary techniques.

Distance learning—a telecommunications link to an end user through the use of eligible equipment to:

(1) Provide educational programs instruction, or information originating in nonrural areas to students who are located in rural areas; or

(2) Connect teachers or instructors located in one rural area with students that are located in a different rural area.

Eligible equipment—a communication satellite ground station complex, computer networks, data terminal equipment, fiber-optic cable, interactive video equipment, telecommunications transmission facilities and telecommunications terminal equipment.

Eligible organization—an incorporated entity that meets the requirements of § 1703.103.

End user—either of the following:

(1) Rural elementary or secondary schools or other educational institutions, such as institutions of higher education, county extension services, vocational and adult training and education centers, and teacher training centers, and students, teachers and instructors using such rural educational facilities, that participate in a rural distance learning telecommunications program through a project funded under this subpart; or

(2) Rural hospitals, primary care centers or facilities, such as medical centers and clinics, and physicians and staff using such rural medical facilities, that participate in a medical link telecommunications program through a project funded under this subpart.

Fiber-optic cable—a bundle of optical transmission elements or waveguides usually consisting of a fiber core and fiber cladding that can guide a

lightwave and that are incorporated into an assembly of materials that provide tensile strength and external protection.

Grant beneficiary—a person who resides in a rural area that directly benefits from a project receiving assistance with a grant provided pursuant to this subpart.

Grantee—a recipient of a grant from REA to carry out the purposes of this subpart.

Instructional programming—computer software and educational programming which would be used for tutorial purposes in connection with eligible equipment.

Interactive video equipment—equipment used to produce and prepare for transmission audio and visual signals from at least two distant locations such that individuals at such locations can verbally and visually communicate with each other, and such equipment includes monitors, other display devices, cameras or other recording devices, audio pickup devices, and other related equipment.

Letter of agreement—a legal document executed by REA and the grantee that contains specific terms, conditions, requirements and understandings applicable to a particular grant.

Local telephone exchange carrier—a commercial, cooperative or mutual-type association or public body that provides telephone service, through a local central switching office, to the subscribers within its designated service area, and between the local subscribers and the toll network.

Medical link—a telecommunications link to an end user through the use of eligible equipment which electronically links medical professionals at separate sites in order to exchange medical information in audio, video, graphic or other format for the purpose of providing improved health care services primarily to residents of rural areas.

Project—an undertaking to provide or improve a distance learning or medical link by using financial assistance from REA under this subpart.

RE Act—the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

REA—the Rural Electrification Administration, an agency of the United States Department of Agriculture.

Rural—any area of the country that is sparsely populated, where the economy centers on agriculture and ranching. Any area within the boundaries of an incorporated community of 2,500 persons or more as determined by the latest U.S. Census Bureau decennial census is not considered to be sparsely populated.

Rural community facilities—facilities such as schools, libraries, hospitals, medical centers, or similar facilities, located in rural areas, or primarily used by residents of rural areas, that will use a telecommunications, computer network, or related advanced technology system to provide educational and/or medical benefits primarily to residents of rural areas.

Scope of work—a detailed plan of work that has been approved by the Administrator and that will be performed by the applicant using funds provided under the grant.

Technical assistance—studies, analyses, designs, reports, manuals, guides, literature, or other forms of creating, acquiring and/or disseminating information.

Telecommunications plan—a comprehensive rural telecommunications plan submitted by an applicant in accordance with 7 U.S.C. 2333(3) and § 1703.114(e) and § 1703.139.

Telecommunications terminal equipment—the assembly of telecommunications equipment at the end of a circuit, normally located on the premises of the end user, that interfaces with telecommunications transmission facilities, and that is used to modify, convert, encode, or otherwise prepare signals to be transmitted via such telecommunications facilities, or that is used to modify, reconvert or carry signals received from such facilities, the purpose of which is to accomplish the goal for which the circuit was established.

Telecommunications transmission facilities—facilities that transmit, receive, or carry data between the telecommunications terminal equipment at each end of the telecommunications circuit or path. Such facilities include microwave antennae, relay stations and towers, other telecommunications antennae, fiber-optic cables and repeaters, coaxial cables, communication satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmissions, and similar items.

Telephone service—telephone service as defined in section 203(a) of the RE Act (7 U.S.C. 901 *et seq.*).

§ 1703.103 Applicant eligibility.

To be eligible to receive a grant under this subpart, the applicant must be an incorporated organization which operates a school, library, hospital, medical center, medical clinic or similar rural community facility. The applicant may be a private or municipal corporation and may be organized on a profit or non-profit basis. The applicant must be capable of using eligible equipment to provide distance learning or medical links. Applicants must be located in a rural area or provide a majority of their educational or medical services to residents of rural areas. The applicant must not be delinquent on any obligation owed to the Federal Government (7 CFR parts 3015 and 3016).

§ 1703.104 Grant purposes.

Grants may be used by eligible organizations for distance learning and medical link projects to finance up to 80 percent of the cost of:

(a) Acquiring, by lease or purchase, eligible equipment;

(b) Acquiring, by lease or purchase, software to operate eligible equipment, including any related software;

(c) Acquiring or developing instructional programing;

(d) Providing technical assistance and instruction for using eligible equipment, including any related software;

(e) Engineering or environmental studies relating to the establishment or expansion of the phase of the project that is being financed with the REA grant; and

(f) Facilities, equipment or activities that are described in a telecommunications plan which has been approved by the Administrator.

§ 1703.105 Ineligible grant purposes.

(a) Grants must not be used:

(1) To fund more than 80 percent of the eligible costs of a project under this subpart;

(2) To cover the costs of installing telecommunications transmission facilities except as provided in paragraph (c) of this section;

(3) To pay for medical equipment except medical equipment primarily used for encoding and decoding data, such as images, for transmission over a telecommunications or computer network;

(4) To pay salaries, wages or employee benefits to medical or educational personnel;

(5) To pay for the salaries or administrative expenses of the applicant;

(6) To purchase equipment that will be owned by the local telephone exchange carrier or another telecommunications service provider;

(7) For site development, the destruction or alteration of buildings, or other activities that might adversely affect the environment or limit the choice of reasonable alternatives unless and until the requirements of § 1703.111(j) have been satisfied;

(8) To duplicate services in place on the date of the completed application to REA, or replace or substitute financial support that was previously provided;

(9) To pay costs of preparing the application package for funding under this program;

(10) To refinance indebtedness incurred prior to receipt of the completed application at REA;

(11) For projects whose sole object is merely to provide links between teachers and students that are located at the same facility;

(12) For any purpose that the Administrator has not specifically approved; or

(13) For projects located in areas covered by the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*).

(b) Except as otherwise provided in § 1703.140, funds will not be used to finance project in part when success of the project is dependent upon the receipt of additional funding under this subpart or is dependent upon the receipt of other funding that is not assured.

(c) Grants must not be used to cover the costs of installing telecommunications transmission facilities if the local telephone exchange carrier for the project area will install such facilities through the use of the expedited telephone loans made under the RE Act or through other financing procedures within a reasonable time period and at a cost that does not destroy the feasibility of the project, as determined by the Administrator.

§ 1703.106 Maximum and minimum sizes of a grant.

Applications for grants to be considered under this subpart will be subject to limitations on the proposed amounts of funding. The maximum grant amount that will be awarded for any one project in any given fiscal year will not exceed 10 percent of the appropriated funds available for all grants during the fiscal year in which the applications for such project is selected. The Administrator may publish notice of the annual maximum grant amount in the Federal Register. An applicant submitting an application which exceeds the maximum will be notified to that effect by REA and given the opportunity to revise the application. The minimum size of a grant will be $10,000.

§ 1703.107 Conflicts of interest.

At any time prior to the disbursement of a grant awarded under this subpart, the Administrator may disqualify an otherwise eligible project whenever, in the judgement of the Administrator, the project would create a serious conflict of interest or the appearance of a serious conflict of interest. The Administrator will notify the applicant in writing of his/her intention to disqualify the project under this section and set forth the basis for his/her determination that a serious conflict of interest or appearance exists. Thereafter, the applicant will have 30 days from the date of such notice to file a written response with the Administrator. If the Administrator receives the applicant's response within the 30-day period, the Administrator will consider the information contained therein before making a final determination whether to disqualify the project. The Administrator will promptly notify the applicant of the final determination whether a serious conflict of interest or appearance of a serious conflict exists. If the determination is affirmative, the notice will also advise the applicant whether the project is disqualified or conditionally disqualified. If the project is conditionally disqualified, the notice will state under what circumstances the project may continue to be eligible for assistance under this subpart. The Administrator's decision under this section will be final.

§§ 1703.108–1703.110 [Reserved]

§ 1703.111 Compliance with other Federal statutes and regulations.

(a) *Equal opportunity and nondiscrimination requirements.* All grants made under this subpart are subject to the nondiscrimination provisions of title VI of the Civil Rights Act of 1964, as amended, (part 15 of this title); section 504 of the Rehabilitation Act of 1973, as amended, (part 15b of this title); the Age Discrimination Act of 1975, as amended, (45 CFR part 90); and Executive Order 11246, as amended by Executive Order 11375.

(b) *Architectural barriers.* All facilities financed with REA grants that are open to the public, or in which physically handicapped persons may be employed or reside, must be designed, constructed, and/or altered to be readily accessible to, and usable by handicapped persons. Standards for these facilities must comply with the Architectural Barriers Act of 1968, as amended, and with the Uniform Federal Accessibility Standards (UFAS), (appendix A to 41 CFR subpart 101–19.6, as set forth in part 15b of this title).

(c) *Flood hazard area precautions.* In accordance with part 1788 of this title, if the project is in an area subject to flooding, flood insurance must be provided to the extent available and required under the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 through 4128). The insurance must cover, in addition to the buildings, any machinery, equipment, fixtures and furnishings contained in the buildings. REA will comply with Executive Order 11988, Floodplain Management, in considering the application for the project.

(d) *Real property acquisition.* Acquisition of real property in connection with this program is subject to part 21 of this title, Uniform Relocation Assistance and Real Property Acquisition for Federal and federally Assisted Programs. Owners of real property acquired under Federal or federally-assisted programs, and persons displaced from their dwellings, businesses, or farms as a result of such an acquisition, must be provided fair, consistent, and equitable treatment, as defined by these regulations.

(e) *Drug-free workplace.* Grants made under this subpart are subject to the requirements set forth in 7 CFR Part 3017, Subpart F, Drug-Free Workplace Requirements, which implements the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*). An applicant requesting a grant will be required to certify that it will establish and make a good faith effort to maintain a drug-free workplace program.

(f) *Debarment and suspension.* The requirements of Executive Order 12549, Debarment and Suspension, and 7 CFR Part 3017, Subparts A through E, Governmentwide Debarment and Suspension (Nonprocurement), regarding debarment and suspension are applicable to this subpart.

(g) *Intergovernmental review of Federal programs.* This program is subject to the requirements of Executive Order 12372, Intergovernmental Review of Federal Programs and 7 CFR Part 3015, Subpart V, Intergovernmental Review of Department of Agriculture Programs and Activities, which implements Executive Order 12372. Proposed projects are subject to the State and local government review process set forth in part 3015 of this title. Under the review process, State and local governments have 60 days to comment on the proposed project. The Administrator will not give final approval to an application until the requirements of subpart V, part 3015 of this title, regarding State and local government review have been satisfied.

(h) *Restrictions on lobbying.* The restrictions and requirements imposed by 31 U.S.C. 1352, entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions" and the

implementing regulation, part 3018 of this title, New Restrictions on Lobbying, are applicable to this program. The regulation that implements this statute requires applicants for a grant in excess of $100,000 to file a certification statement regarding the use of federally appropriated funds to lobby the Executive and Legislative branches of the Federal Government and to file a disclosure form if engaged in these activities using unappropriated funds. In addition, persons that receive subgrants, contracts or subcontracts in excess of $100,000 under a grant must file certification statements regarding lobbying the Executive and Legislative branches and, if engaged in these activities, to file disclosure forms.

(i) *Management assistance.* REA will monitor grant recipients as necessary to assure that projects are completed in accordance with the approved scope of work and that funds are expended for approved purposes. Grants made under this subpart will be administered under, and are subject to parts 3015 through 3018 of this title.

(j) *Environment.* Applicants for grants must consider the potential environmental impact of their proposed projects at the earliest planning stage and should plan development in a manner that reduces, to the extent practicable, the potential to affect the quality of the human environment adversely. Grants made under this subpart are subject to part 1794 of this chapter which contains the policies and procedures of REA for implementing a variety of Federal statutes, regulations and executive orders generally pertaining to protection of the quality of the human environment that are listed in § 1794.1 of this chapter.

§ 1703.112 [Reserved]

§ 1703.113 Application filing dates and location.

(a) Applications for funding under this subpart may be submitted to the Administrator, Rural Electrification Administration, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250–1500. Applications should be marked "Attention: Assistant Administrator, Economic Development and Technical Services."

(b) Applicants may file applications at any time during a fiscal year period. Applications will be reviewed for eligibility and considered for funding on a quarterly basis. Application cut-off dates for consideration in a particular quarterly period are on the fourteenth day of January, April, July, and October of each year. Applications which are considered eligible but are not selected for funding in a quarter will be considered for funding in the following quarter(s) for not more than four quarters in total consideration unless withdrawn sooner by the applicant. An application considered in four consecutive quarters and not selected for funding will be returned to the applicant. The Administrator may establish a special selection period in an extraordinary circumstance.

§ 1703.114 Application processing and contents.

For instances where multiple applicants are necessary to carry out a project due to project feasibility or applicant authorities, multiple applications may be submitted jointly by the applicants. The applicants must clearly mark or otherwise identify any information in the application it deems proprietary. The application consists of:

(a) *An application form.* The applicant must provide an original and one copy of a completed SF 424 "Application for Federal Assistance." The applicant must submit a copy of the application to the state government point of contact at the same time it submits the application to REA. All applications must be accompanied by the information described in paragraphs (a) through (n) of this section.

(b) *Evidence of legal existence and corporate authority.* The applicant must provide evidence of its legal existence and authority to perform the activities under the grant, and an opinion by its attorney that it is legally formed according to state statutes and has authority to perform the proposed activities under the grant and to comply with the provisions of this subpart.

(c) *A board resolution.* The applicant must provide a board resolution or equivalent that:

(1) Authorizes the request of a grant under this subpart in the amount required to the nearest hundred dollars; and

(2) Authorizes appropriate applicant official(s) by name or title to requisition grant funds and execute all documents required by REA under this subpart.

(d) *Miscellaneous Federal forms.* The applicant must provide the following completed forms:

(1) "Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transaction" (see 7 CFR 3017.510);

(2) An assurance statement or certification statement required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, if appropriate;

(3) "Certification Regarding Drug-Free Workplace Requirements (Grants)" (see 7 CFR 3017.600); and

(4) For an application for a grant in excess of $100,000, a certification statement, "Certification Regarding Lobbying;" and, if the applicant is engaged in lobby activities described under § 1703.111(h) of this subpart, a completed disclosure form, "Disclosure of Lobbying Activities" (see 7 CFR 3018). Copies of these certifications are available upon request.

(e) *A telecommunications plan.* The applicant must provide a Telecommunications Plan prepared in accordance with § 1703.139 and placed in a separate section of this application entitled "Comprehensive Rural Telecommunications Plan."

(f) *A section on compliance with ranking criteria.* The applicant must provide an explanation of how the proposed project meets each of the criteria for making applications set forth in § 1703.118.

(g) *A section on compliance with technical standards.* The applicant must provide an explanation of how the plan complies with generally accepted standards for advanced telecommunications systems and any specific technical standards otherwise established by the Administrator pursuant to published regulations.

(h) *Financial information.* The applicant must provide the latest financial information to show its financial capacity to carry out the proposed work and to support the need for grant funds for the project. At a minimum, the information should include a balance sheet and income statement. A current audit report is preferred.

(i) *A statement of experience.* The applicant must provide a written narrative describing its demonstrated capability and experience, if any, in operating a project similar to the proposed project.

(j) *Funding commitments from other sources.* The applicant must provide evidence of commitment of funds for the project in addition to the funds requested under this subpart. Evidence should be from an authorized representative of the source organization that the funds are available and will be used for the proposed project.

(k) *Environmental information.* The applicant must provide environmental information which shall be prepared in accordance with § 1703.138 and placed in a separate section entitled "Environmental Impact of the Project."

(l) *The proposed scope of work.* The applicant must provide a proposed scope of work which includes, at a minimum, the following:

(1) The specific activities to be performed under the project;

(2) Who will carry out the activities;

(3) The timeframes for accomplishing the project objectives and activities; and

(4) A budget reflecting the line item costs for both the grant funds and other sources of funds for the project.

(m) *The proposed evaluation methodology.* The applicant must provide a proposed method of evaluating the success of the project in meeting the objectives of the program as set forth in § 1703.100 and § 1703.101 of this subpart and the proposed scope of work.

(n) *Supplemental information.* The applicant should provide any additional information the applicant considers relevant to the project and likely to be helpful in determining the extent to which the proposed project would further the purposes of this subpart.

(o) *Additional Information Requested by REA.* The applicant must provide any additional information the Administrator may consider relevant to the application and necessary to adequately evaluate the application and make grant decisions. The Administrator may also request modifications or changes, including changes in the amount of funds requested, in any proposal described in a grant application submitted under this subpart.

§ 1703.115 Public notice of applications received.

On or about the 25th day of January, April, July, and October of each year, the Administrator will publish notice in the **Federal Register** of the applications received for funding under this subpart. The Administrator will also make those applications available for public inspection at the U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC by any telecommunications provider described in section 2333(f) of the Act. For purposes of this section, applications include any information not protected by the Privacy Act of 1974, 5 U.S.C. 552a, and any other information that has not been designated as proprietary information by the applicant.

§§ 1703.116–1703.117 [Reserved]

§ 1703.118 Criteria for ranking applications.

(a) The criteria in this section will be used by the Administrator to rank applications that have been determined to be in compliance with the requirements of this subpart. Applications will be selected for funding that receive the greatest number of total points based on the following factors, subject to available funds and provisions of § 1703.118(b). The Administrator will make determinations regarding the reasonableness of all numbers, dollars, levels and rates, as well as the nature, cost, location and other characteristics of the application and the proposed project, to determine the number of points assigned to an application for all selection criteria. Joint applications submitted by multiple applicants as set forth in § 1703.114(a) will be rated as a single application.

(1) Project worthiness criteria include:

(i) The extent to which the project will encourage and improve the use of advanced telecommunications, computer networks, and related advanced technologies to provide quality educational and/or medical benefits to residents of rural areas. The Administrator will consider the overall design of the project, the manner in which the project will improve access of rural residents to improved educational, training, and medical services using advanced communication and information links, the technologies to be employed in the project, and whether the educational and/or medical benefits of the project will be made accessible to rural residents through the use of advanced telecommunications, computer networks, and related advanced technologies—up to 15 points;

(ii) The nature and extent of the benefits of the project given the cost of the project. The Administrator will evaluate the applicant's analysis of the benefits and cost of the project. The applicant should quantify the benefits and cost to the extent possible and propose projects that maximize net benefits. Examples of educational benefits include offering the students in a rural school more advanced or specialized courses, meeting curriculum requirements, providing a means to train and develop the teaching staff of a rural school, establishing a means to access information that not available locally, offering job training, continuing education, and higher education courses or degrees to rural residents, and offering job training options for rural residents. Examples of medical benefits include affording rural physicians and medical professional access to support functions such as consulting with others on a diagnosis or the latest recommendations in treatment procedures and techniques, up-to-date health-care research, and continuing medical studies. Other benefits include retaining more patients at rural hospitals and medical facilities, preventing the closure of rural hospitals and medical facilities, retaining more medical care professionals in rural areas, and reducing the potential complications and costs of travel for patients. The Administrator will take into consideration the number of rural residents to be served or directly receive the benefits of the project. The benefit-cost analysis will consider both the recurring benefits and the non-recurring benefits to the rural residents from project. The costs will be reviewed on the basis of capital investments costs, other non-recurring costs, and the recurring costs over the life of the project. Applicants should address these costs separately. The Administrator will compare the benefits to the costs in determining the cost-effectiveness of the project and the number of points that will be assigned to an application—up to 20 points;

(iii) The extent to which the proposed methods of performing the project relating to buying or leasing equipment are the most cost-effective for the type of project proposed. The application must contain information necessary for the Administrator to use accepted financial methodologies to determine whether the applicant is proposing the most cost-effective option—up to 10 points;

(iv) The demonstrated capability, experience, and knowledge of the applicant and others who will be active in the proposed project for carrying out the project purpose—up to 10 points;

(v) The extent to which the proposed techniques or designs have been proven in similar projects created for the rural environment and will offer quality educational and medical benefits—up to 10 points;

(vi) The project concept and design are well developed to ensure that the project has a high probability of accomplishing its objectives and will likely result in long-term success as measured by improved educational and medical benefits to rural residents—up to 10 points; and

(vii) Whether or not the project will be a demonstration project and the project can be duplicated or applied to other rural areas—up to 5 points.

(2) Criteria on the financial capabilities and needs of the applicant include:

(i) Whether the applicant is unable to finance, at reasonable rates and terms, the proposed project without the grant funds requested under this Subpart—up to 60 points. REA will consider:

(A) The demonstrated financial need of the applicant based on financial

statements and potential sources of revenue;

(B) Whether the applicant has the ability to finance the entire project without grant funds or whether the addition of the grant funds will make the project feasible that otherwise would be unfeasible due to the rural nature of the affected area; and

(C) Whether it is likely that the proposed project will be undertaken or completed in the absence of an REA grant.

(ii) Evidence of additional financial support for the project. For applications that receive the highest number of points under (a)(2)(i) of this section, evidence of additional financial support for the project from nonFederal sources above the required 20 percent supplement to the project; including evidence from authorized representatives of the sources that the funds are available and will be used for the proposed project:

(A) More than 30 percent and less than 40 percent supplemental funds—5 points; or

(B) 40 percent or more supplemental funds—10 points.

(3) Criteria on the need of the affected rural communities for the project that include:

(i) The extent to which the need for improved educational or medical services in the proposed rural area compared to other regions is well documented. REA will also consider any support by recognized experts in the related educational or medical field—up to 25 points.

(ii) A comparison of the per capita personal income in the county where the project or the beneficiaries are located to the state and national per capita personal income levels.

(A) If the per capital personal income level in the county where the grant beneficiary will be located:

(*1*) Is less than or equal to 90 percent of the national per capita personal income level—15 points, the maximum number of points;

(*2*) Is equal to the national per capita personal income level—5 points; or

(*3*) Exceeds the national per capita personal income level by 15 percent or more—0 points.

(B) If the per capita personal income level in the county where the grant beneficiaries will be located:

(*1*) Is less than or equal to 90 percent of the state per capita personal income level—8 points, the maximum number of points;

(*2*) Is equal to the state per capita personal income level—4 points; or

(*3*) Exceeds the state per capita personal income level by 15 percent or more—0 points.

(C) Per capita personal income levels falling between these national or state levels will be assigned points based on straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of 1/2 or greater equals 1.

(D) If the project will serve grant beneficiaries in several counties, the Administrator will use a simple average (mean) of the counties for the comparison.

(E) REA will use the most recent annual per capita personal income levels it has obtained from the Bureau of Economic Analysis, U.S Department of Commerce or other government sources and processed into a suitable format.

(iii) The change in total population over the most recent two-year period in the county where the grant beneficiaries will be located, calculated as the population for the most recent year less the population as of two years prior to that year with the difference being divided by the population as of two years prior to the most recent year.

(A) If the percentage growth over the two-year period:

(*1*) Is negative 2 percent or higher negative amount (a population decline)—10 points, the maximum number of points; or

(*2*) Is equal to zero or is positive (population increase)—0 points.

(B) Population growth percentage falling between these levels will be assigned points based on straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of 1/2 or greater equals 1.

(C) If the grant beneficiary will be located in several counties, the Administrator will use a simple average (mean) of the counties for the comparison.

(D) REA will use the most recent population data for all counties it has obtained from the Bureau of Economic Analysis, U.S. Department of Commerce or other government sources and processed into a suitable format. The data provide one population figure for the year.

(iv) The population density in the county or counties where the grant beneficiaries are located as determined by the Administrator:

(A) If the population density in the county or counties where the grant beneficiaries will be located is:

(*1*) 50 persons or less per square mile—15 points, the maximum number of points;

(*2*) 100 persons per square mile—5 points; or

(*3*) More than 100 persons per square mile—0 points.

(B) Population density numbers falling between these levels will be assigned points based on straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of 1/2 or greater equals 1.

(C) If the grant beneficiary will be located in several counties, the Administrator will use a simple average (mean) of the counties for the comparison.

(D) REA will use the most recent population data for all counties it has obtained from the Bureau of Economic Analysis, U.S. Department of Commerce or other government sources and processed into a suitable format.

(4) Other criteria include:

(i) Proposed projects for telecommunications transmission facilities to be funded under this subpart will be jointly shared by other projects that would enhance the purpose(s) of this subpart—up to 50 points;

(ii) Projects that use telecommunications transmission facilities and/or computer networks not financed through grants under this subpart for which the applicant has obtained a certification that the carrier will provide the facilities necessary for the project—up to 25 points; and

(iii) Projects that have the greatest probability of long-term success of fulfilling the purpose and policy goals of this subpart—to 20 points.

(b) Regardless of the number of points an application may receive, the Administrator may:

(1) Limit the number of applications selected for projects located in any one state during a fiscal year;

(2) Limit the number of selected applications for an applicant during a fiscal year;

(3) Limit the number of selected applications for a particular project; and

(4) Select an application receiving fewer points than another higher scoring application if there are insufficient funds during a particular funding period to select the higher ranked application; provided, however, the Administrator may ask the applicant of the higher scoring application if it desires to reduce the amount of its application to the amount of funds available if the Administrator determines the project is feasible at the lower amount.

(c) REA reserves the right to use the region or other data it considers most appropriate if "county" data are unavailable for a particular area. In those cases, the Administrator will use data complied on a basis of the

equivalent of a county in the state, such as a parish, or on another basis that most approximates "county" level data.

§§ 1703.119–1703.121 [Reserved]

§ 1703.122 Further processing of selected applications.

(a) During the period between the selection of the application and the execution of implementing documents, the applicant must inform the Administrator if the project is no longer viable or the applicant no longer desires a grant for the project. If the applicant so informs the Administrator, the selection will be rescinded and written notice to that effect shall be sent promptly to the applicant.

(b) If an application has been selected and the nature of the project changes, the applicant may be required to submit a new application to the Administrator for consideration depending on the degree of change. A new application will be subject to review in accordance with this subpart. The selection may not be transferred to another project.

(c) If state or local governments raise objections to a proposed project under the intergovernmental review process that are not resolved within 3 months of the Administrator's selection of the application, the Administrator may rescind the selection and written notice to that effect will be sent promptly to the applicant.

(d) After an applicant has submitted such additional information, if any, the Administrator determines is necessary for completing the grant documents, the Administrator will send the documents to the applicant to execute and return to REA.

(1) The grant documents will include a letter of agreement and any other legal documents the Administrator deems appropriate, including suggested forms of certifications and legal opinions.

(2) The letter of agreement will, among other things, constitute the Administrator's approval of funds for the project subject to certain terms and conditions and include at a minimum, a project description, approved purposes of the grant, the maximum amount of the grant, supplemental funds to be provided to the project and certain agreements or commitments the applicant may have proposed in its application.

(e) Until the letter of agreement has been executed and delivered by REA, the Administrator reserves the right to require any changes in the project or legal documents covering the project to protect the integrity of the program and the interests of the United States Government.

(f) If the applicant fails to submit, within 120 calendar days from the date of the Administrator's selection of an application, all of the information that the Administrator determines to be necessary to prepare legal documents and satisfy other requirements of this subpart, the Administrator may rescind the selection of the application and written notice to that effect will be sent promptly to the applicant.

§§ 1703.123–1703.125 [Reserved]

§ 1703.126 Disbursement of grant funds.

(a) Prior to the disbursement of funds, the grantee, if it is not a unit of government, will provide evidence of fidelity bond coverage as required by § 3015.17 of this title.

(b) Grant funds will be disbursed to grantees on a reimbursement basis by the following process:

(1) An SF 270, "Request for Advance or Reimbursement," will be completed by the applicant and submitted to REA not more frequently than once a month; and

(2) After receipt of a properly completed SF 270, payment will ordinarily be made within 30 days.

(c) The grantee's share in the cost of the project will be disbursed in advance of grant funds, or if the grantee agrees as modified, on a pro rata distribution basis with grant funds during the disbursement period. Grantee will not be permitted to provide its contribution at the end of the project.

§ 1703.127 Reporting and oversight requirements.

(a) An SF 269, "Financial Status Report," and a project performance activity report will be required of all grantees on a quarterly basis.

(b) A final project performance report will be required with the last SF 269. The final report also must provide an evaluation of the success of the project in meeting the objectives of the program. The final report may serve as the last quarterly report.

(c) Grantees shall diligently monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. Grantees are to submit an original and one copy of each report to REA. The project performance reports shall include, but not be limited to, the following:

(1) A comparison of actual accomplishments to the objectives established for that period;

(2) Reasons why established objectives were not met;

(3) A description of any problems, delays, or adverse conditions which have occurred, or are anticipated, and which may affect the attainment of overall project objectives, prevent the meeting of time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(4) Objectives and timetable established for the next reporting period.

§ 1703.128 Audit requirements.

The grantee will provide an audit report in accordance with part 3015, subpart I of this title. The audit requirements only apply to the year(s) in which grant funds are received. Audits must be prepared in accordance with generally accepted government auditing standards (GAGAS) using publication, "Standards for Audit of Governmental Organization, Programs, Activities and Functions."

§§ 1703.129–1703.134 [Reserved]

§ 1703.135 Grant administration.

(a) The Administrator will review grantees, as necessary, to determine whether funds were expended for approved purposes. The grantee is responsible for ensuring that the project complies with all applicable regulations, and that the grant funds are expended only for approved purposes. The grantee is responsible for ensuring that disbursements and expenditures of funds are properly supported by invoices, contracts, bills of sale, cancelled checks, or other appropriate forms of evidence, and that such supporting material is provided to the Administrator, upon request, and is otherwise made available, at the grantee's premises, for review by the REA representatives, grantee's certified public accountant, the office of Inspector General, U.S. Department of Agriculture, the General Accounting Office and any other officials conducting an audit of the grantee's financial statements or records, and program performance under the grant awarded under this subpart. Grantees will be required to permit REA to inspect and copy any records and documents that pertain to the project.

(b) Grants provided under this program will be administered under, and are subject to parts 3015 and 3016 of this title, as appropriate. Parts 3015 and 3016 of this title subject grantees to a number of requirements which cover, among other things, financial reporting, accounting records, budget controls,

record retention and audits, bonding and insurance, cash depositories for grant funds, grant related income, use and disposition of real property and/or equipment purchased with grant funds, procurement standards, allowable costs for grant related activities, and grant close-out procedures.

§ 1703.136 Changes in project objectives or scope.

The grantee will obtain prior approval for any material change to the scope or objectives of the approved project, including changes to the scope of work or budget. Failure to obtain prior approval of changes can result in suspension or termination of grant funds.

§ 1703.137 Grant termination provisions.

(a) *Termination for cause.* The Administrator may terminate any grant in whole, or in part, at any time before the date of completion of grant disbursement, whenever it is determined that the grantee has failed to comply with the conditions of the grant. The Administrator will promptly notify the grantee in writing of the determination and the reasons for the termination, together with the effective date.

(b) *Termination for convenience.* The Administrator or the grantee may terminate a grant in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with further expenditure of funds. The two parties will agree upon termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated. The grantee will not incur new obligations for the terminated portion after the effective date, and will cancel as many outstanding obligations as possible. The Administrator will allow full credit to the grantee for the Federal share of the noncancelable obligations, properly incurred by the grantee prior to termination.

§ 1703.138 Environmental information.

(a) *Grants for technical assistance projects.* For a proposal to fund a technical assistance project, the only environmental information normally required is whether or not the proposed project being studied or analyzed will be located within an area protected under the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*). Generally, the use of Federal funds to promote development on coastal barriers is strictly limited by the Coastal Barrier Resources Act.

(b) *Grants for all other projects.* Applications for a grant to fund a project that is not subject to paragraph (a) of this section must be accompanied by the information described in this paragraph. The Administrator will review supporting materials in the application and initiate an environmental review process pursuant to part 1794 of this chapter. This process will focus on any environmental concerns or problems that are associated with the project. The level and scope of the environmental review will be determined in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended, (42 U.S.C. 4321 *et seq.*), the Council on Environmental Policy for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), REA's Environmental Policies and Procedures (part 1794 of this chapter) and other relevant Federal environmental laws, regulations and Executive Orders. Activity related to the project that may adversely affect the environment or limit the choice of reasonable alternatives shall not be undertaken prior to completion of REA's environmental review process.

(1) For a proposed project that only involves internal modifications or equipment additions to buildings or other structures (for example; relocating interior walls or adding computer facilities) and/or external changes or additions to existing buildings, structures or facilities requiring physical disturbance of less than 0.4 hectare (0.99 acre) the environmental information normally required is:

(i) A description of the internal modifications or equipment additions, and the external changes or additions to existing buildings, structures or facilities being proposed, the size of the site in hectares, and the general nature of the proposed use of the facilities once the project is completed, including any hazardous materials to be used, created or discharged, any substantial amount of air emissions, wastewater discharge, or solid waste that will be generated; and

(ii) Whether the project site contains or is near a property listed or eligible for listing in the National Register of Historic Places (16 U.S.C. 470).

(2) For all other proposed projects that do not meet the requirements in paragraph (a) or (b)(1) of this section, the environmental impact discussion in the application should include:

(i) A diagram showing the general layout of the proposed facilities on the project site;

(ii) The size of the project site in hectares;

(iii) A map (preferably a U.S. Geological Survey map) of the project area indicating the boundaries of the project;

(iv) The presence of floodplains at the project site;

(v) The amount of property to be cleared, excavated, fenced or otherwise disturbed by the project;

(vi) The current land use and zoning of the project site and any vegetation on the project site;

(vii) Buildings or other major structures, including dimensions, to be constructed or modified;

(viii) The presence of wetlands or existing agricultural operations at the project site; properties listed or eligible for listing in the National Register of Historic Places on or near the project site; threatened or endangered species or critical habitat on or near the project site (16 U.S.C. 1531 *et seq.*);

(ix) The general nature of the proposed use of the facilities once the project is completed, including any hazardous materials to be used, created or discharged, any substantial amount of air emissions, wastewater discharge, or solid waste that will be generated (42 U.S.C. 4321 *et seq.*); and

(x) A copy of any environmental review, study, assessment, report or other document that has been prepared in connection with obtaining permits, approvals or other financing for the proposed project from state, local or other Federal bodies. Such material, to the extent relevant, may be used to fulfill the requirements of this section.

(3) REA may request additional environmental information in specific cases to satisfy § 1703.111(j).

§ 1703.139 Telecommunications plan.

A telecommunications plan submitted pursuant to this subpart must include:

(a) A detailed explanation of the proposed rural telecommunications systems project to be funded under this subpart, how the project is to be funded, and a description of the intended uses for the grant received from REA under this subpart. This must include a breakdown of the specific uses of the grant funds requested under this subpart and the specific uses and sources of all funds necessary to ensure completion of the project. Project costs should be limited to the amount of funds to be expended over the grant performance period;

(b) An explanation of the manner in which such plan complies with the requirements set forth under this subpart regarding how the proposed project will fulfill the purpose and policies of the Distance Learning and Medical Link Grant Program;

(c) A listing of the proposed purchases or leases of telecommunications terminal equipment, telecommunications

transmission facilities, data terminal equipment, interactive video equipment, computer hardware and software systems, and components that process data for transmission via telecommunications, computer network components, communication satellite ground station equipment, or any other elements of the telecommunications system designed to further the purposes of this subpart, that the applicant intends to build or fund under a grant received under this subpart;

(d) An explanation of the special financial or other needs of the affected rural communities and of the applicant for grant assistance under this subpart;

(e) An analysis of the relative costs and benefits of proposals for leasing or purchasing of facilities, equipment, components, hardware and software, or other items; and

(f) A description of the consultations with the appropriate local telephone exchange carrier(s), if appropriate for the project, or with other telecommunications service providers appropriate for the project which include other interexchange carriers, cable television operators, enhanced service providers, providers of satellite services, and telecommunications equipment manufacturers and distributors. The plan must discuss the anticipated role of any these providers in the project. Consultations are considered necessary if the proposed project will rely on these services for project success. The description should contain, at a minimum, identification of the proposed project area, the authorized individuals representing those entities, the date of contact, and the anticipated role of the entity(s) in the proposed project. It must include an explanation of the local telephone exchange carrier or other telecommunications service providers' capabilities relative to the proposed project and whether they will provide any portion of the needed service for the proposed project, whether their short-term plan (1 year) or long-term plan includes capability to provide the service for the proposed project, and whether the telephone exchange carrier(s) or other telecommunications service providers, as appropriate, will charge reasonable rates. If the rates to be charged are considered to be unreasonable, a basis for that determination must be provided. The Administrator will determine whether appropriate service from the telephone exchange carrier(s) or telecommunications service providers, as appropriate, can and will provide the needed service necessary to the project at reasonable rates and within a reasonable timeframe.

§ 1703.140 Expedited telephone loans.

(a) *General.* (1) The Administrator will afford expedited consideration and determination to an application for a loan or a request for advance of funds submitted by a local telephone exchange carrier pursuant to section 2334(h) of the Act (7 U.S.C. 950aaa *et seq.*).

(2) Funds obtained through the expedited procedures established by this section must be used primarily to provide advanced telecommunications services in rural areas using a telecommunications project that the Administrator has approved under this subpart.

(3) Only those elements of a telecommunications project that have not been funded in whole, or in part, with a grant made under this subpart are eligible for expedited consideration or determination under this section.

(b) *Expedited loan applications.* (1) In order to qualify for expedited consideration or determination under paragraph (a)(1) of this section, the loan application must:

(i) Be from a local telephone exchange carrier that will use the requested funds for the purpose set forth in paragraph (a)(2) of this section;

(ii) Be a completed one that complies with the requirements of part 1737, subpart C of this chapter; and

(iii) Be received concurrently with the related grant application or within 14 days of the date notice of such application is published in the Federal Register as set forth in § 1703.115.

(2) Expedited consideration and determination of a qualifying application for a loan under this section means that within 45 days of receipt or 45 days of selection of the related grant application, whichever occurs later, the Administrator will:

(i) Issue a characteristics letter, as set forth in part 1737, subpart I of this chapter, to the loan applicant; or

(ii) Inform the loan applicant that its application for a loan has been denied.

(c) *Expedited advances.* (1) In order to qualify for expedited consideration or determination under paragraph (a)(1) of this section, the request for advance of funds must:

(i) Be from a local telephone exchange carrier that will use the funds for the purpose set forth in paragraph (a)(2) of this section;

(ii) Be for all or part of a loan which has received release approval pursuant to part 1737, subpart K of this chapter; and

(iii) Be in compliance with the requirements of part 1744 of this chapter.

(2) Expedited consideration and determination of a qualifying request for advance of loan funds under this section means that the Administrator will advance funds to the borrower within 45 days of receiving a request which complies with the provision of this section.

Dated: March 23, 1992.

Michael M.F. Liu,

Acting Administrator.

[FR Doc 92-12209 Filed 5-22-92; 8:45 am]

BILLING CODE 3410-15-F

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-CE-23-AD]

Airworthiness Directives; British Aerospace, Regional Aircraft Limited, Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would be applicable to certain British Aerospace (BAe), Regional Aircraft Limited, Jetstream Models 3101 and 3201 airplanes. The proposed action would assure that a taper pin is installed in the main passenger/crew door locking mechanism. The Federal Aviation Administration (FAA) has received a report of a missing taper pin on the locking mechanism of a passenger crew/door on one of the affected airplanes, which was discovered during installation of the door. The actions specified by this AD are intended to prevent the inability to open the passenger/crew door, which could result in passenger injury if emergency evacuation was needed.

DATES: Comments must be received on or before August 10, 1992.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-23-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that is applicable to this AD may be obtained from British Aerospace, Regional Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; Telephone (44–292) 79888; Facsimile (44–292) 79703; or British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041; Telephone (703) 435–9100; Facsimile (703) 435–2628. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Stoer, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; Telephone (322) 513.38.30 ext. 2710; Facsimile (322) 230.68.99; or Mr. John P. Dow, Sr., Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426–6932; Facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92–CE–23–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–CE–23–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain BAe, Regional Aircraft Limited, Jetstream Models 3101 and 3201 airplanes. The CAA reports that a missing taper pin on the locking mechanism of a passenger crew/door on one of the affected airplanes was discovered during installation of the door. The absence of a locking mechanism taper pin could result in the inability to open the passenger/crew door and possible passenger injury if emergency evacuation was needed.

BAe has issued Service Bulletin (SB) 52–A–JA 911140, dated February 3, 1992, which specifies procedures for determining whether a taper pin is installed on the locking mechanism of the passenger/crew door and procedures for installing a taper pin. The CAA classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the condition described is likely to exist or develop in other BAe, Regional Aircraft Limited, Jetstream Models 3101 and 3201 airplanes of the same type design that have a certain serial-number passenger/crew door installed, the proposed AD would require (1) an inspection to determine whether a tapering pin is installed on the locking mechanism of the passenger/crew door; and (2) installation of a tapering pin on the locking mechanism of the passenger/crew door if not installed. The proposed actions would be accomplished in accordance with BAe SB 52–A–JA 911140, dated February 3, 1992.

The FAA estimates that 68 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1.5 workhours per airplane to accomplish the proposed inspection, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $56,100.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

British Aerospace, Regional Aircraft Limited: Docket No. 92–CE–23–AD.

Applicability: Jetstream Models 3101 and 3201 airplanes (all serial numbers),

certificated in any category, that have a main passenger/crew door installed with one of the following serial numbers:

WIPL-SD-0001 through WIPL-SD-0005, WIPL-SD-0008 through WIPL-SD-0031, WIPL-SD-0034 through WIPL-SD-0046, WIPL-SD-0049, WIPL-SD-0051 through WIPL-SD-0065, WIPL-SD-0067, WIPL-SD-0070, WIPL-SD-0071, SDJ10883, SDJ10884, and SDJ10886 through SDJ10891

Compliance: Required within the next 500 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent the inability to open the passenger/crew door, which could result in passenger injury if emergency evacuation was needed, accomplish the following:

(a) Visually inspect the passenger/crew door locking mechanism in the area between the locking dog and indicator button assembly in accordance with part 2 of the Accomplishment Instructions section of British Aerospace (BAe) Service Bulletin (SB) 52-A-JA 911140, dated February 3, 1992, to ensure that a taper pin (part number SP28E4) is installed.

(b) If a taper pin (part number SP28E4) is not installed, prior to further flight, accomplish part 3 of the Accomplishment Instructions section of BAE SB 52-A-JA 911140, dated February 3, 1992.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to British Aerospace, Regional Aircraft Limited, Manager Product Support, Airlines Division, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC, 20041. This document may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 19, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-12147 Filed 5-22-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 92-ANM-5]

Proposed Amendment to Worland Control Zone; Worland, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Worland Control Zone, Worland, Wyoming, from full-time to part-time. A reduction in personnel staffing of the Worland Flight Service Station has resulted in weather observations not being available 24 hours a day. This action would bring publications up-to-date giving continuous information to the aviation public.

DATES: Comments must be received on or before July 30, 1992.

ADDRESSES: Send comments on the proposal to:

Robert Brown, ANM-535, Federal Aviation Administration, Docket No. 92-ANM-5, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert Brown, ANM-535, Federal Aviation Administration, Docket No. 92-ANM-5, 1601 Lind Avenue SW., Renton, Washington 98055-4056, Telephone: (206) 227-2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92-ANM-5." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered on or before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examinations at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, ANM-530, 1601 Lind Avenue SW., Renton, Washington, 98055-4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Worland Control Zone, Worland, Wyoming, from full-time to part-time. A reduction in personnel staffing at the Worland Flight Service Station has resulted in weather observations not being available 24 hours a day, and therefore, full-time control zone services will not be available. The amendment, if adopted, would allow for changes in the hours of effectiveness by issuance of Notices to Airmen when minor variations in time of designation are anticipated. The description of the Worland Control Zone is published in § 71.171 of FAA Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The amended designation for this control zone would be published subsequently in § 71.171 of Handbook 7400.7, if this proposed rule is promulgated.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory

evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, if promulgated, will not have a significant economic impact, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.171 DESIGNATION

* * * * *

Worland, WY [Revised]

Within a 5-mile radius of Worland and Municipal Airport (lat. 43°58'10"N., long. 107°56'50"W.) and within 3.5 miles each side of the Worland VOR 352° radial, extending from the 5-mile radius zone to 12 miles north of the VOR. This control zone shall be effective during the specified dates and times established in advance by Notice to Airmen. The effective date and time thereafter will be continuously published in the airport/facility directory.

* * * * *

Issued in Seattle, Washington, on May 8, 1992.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 92–11947 Filed 5–22–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 175

Receipt of Domestic Interested Party Petition Concerning Classification of Gas and Steam Turbines Entered With Electric Generators

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition submitted on behalf of a domestic interested party concerning the classification of certain turbines and generators entered together. In HQ 087074 (November 21, 1991), and HQ 088013 (November 21, 1991), Customs held that the products were classified as generator sets in subheading 8502.30.00, Harmonized Tariff Schedule of the United States (HTSUS), subject to a Column 1 rate of duty of 3 per cent *ad volorem*. The petitioner contends that the turbines and generators should be classified separately in Headings 8411, 8406 or 8501, HTSUS, subject to Column 1 rates of duty of 5 per cent, *ad valorem*, 7.5 per cent *ad volorem* or 3 per cent *ad valorem*, respectively. This document invites comments concerning the correctness of the determination that the turbines and generators are classified as generator sets in Heading 8502, HTSUS.

DATES: Comments must be received on or before June 25, 1992.

ADDRESSES: Comments (perferably in triplicate) may be addressed to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., room 2119, Washington, DC 20229 (202–566–8237).

FOR FURTHER INFORMATION CONTACT: Christopher M. Schmitt, Metals and Machinery Classification Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–2938).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), a petition has been filed by a domestic interested party concerning the classification of certain turbines and generators in subheading 8502.30.00, HTSUS, subject to a Column 1 rate of duty of 3 per cent *ad valorem*.

In HQ 087074 (November 31, 1991), Customs held that gas turbines and electric generators, entered together, were classified as generating sets in subheading 8502.30.00, HTSUS, subject to a Column 1 rate of duty of 3 per cent, *ad valorem*. The turbines and generators, subsequent to entry, were connected by means of couplings on their respective shafts which were bolted together to form a single shaft. The turbine-generator machines were described as single shaft (3,600 rpm), single casing machines consisting of one 17-stage compressor and one 4-stage turbine.

In HQ 088013 (November 21, 1991), Customs held that steam turbines and electric generators, entered together, were classified as generating sets in subheading 8502.30.00, HTSUS, subject to a Column 1 rate of duty of 3 per cent, *ad valorem*. Subsequent to entry, the rotors or shafts of the turbines and generators were connected by means of a gear reduction unit or box. The turbine rotor of one model rotated between 5,500 and 11,000 rpm, and the rotor of the generator rotated at 3,600 rpm. The turbine rotor of the second model rotated at 6,045 rpm, and the rotor of the generator rotated at 3,600 rpm.

In HQ 087074 and HQ 088013, we found that the design features of the machines insured that the connected shafts rotated at identical speeds, and that the vibrational behavior, bearing loads and other features of the machines must be matched. Because the units were commonly bought and sold together, were commercially regarded as generating sets, and possessed design features that indicate they would be permanently attached to one another, we concluded that they were designed to be mounted together as one unit for the purpose of Heading 8502.

The petitioner contends that the turbines and generators are not classified as generator sets in Heading 8502, and that the turbines and generators should be classified separately in Headings 8411, 8406 or 8501, HTSUS. The petitioner's arguments include that the products do not have sufficient structural integration, are stand alone machines that are not mounted as one unit or fitted together to form a whole, and are incomplete and unassembled machines that are not classifiable in Heading 8502 pursuant to the HTSUS General Rules of Interpretation.

The petitioner contends that even when entered together, the turbines and generators should be classified separately, with large scale turbines classified in subheading 8411.82.80, HTSUS, subject to a Column 1 rate of duty of 5 per cent *ad valorem*, large scale steam turbines classified in subheading 8406.19.10, HTSUS, subject to a Column 1 rate of duty of 7.5 per cent

ad valorem, and large scale generators classified in subheading 8501.64.00, HTSUS, subject to a Column 1 rate of duty of 3 per cent *ad valorem*.

Comments

Pursuant to § 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties on this issue. The petition of the domestic interested party, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, room 2119, Customs Headquarters, 1301 Constitution Ave., NW., Washington, DC 20229.

Authority

This notice is published in accordance with § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Drafting Information

The principal author of this document was Christopher M. Schmitt, Metals and Machinery Classification Branch, U.S. Customs Service. Personnel from other Customs offices participated in its development.

Carol Hallett,

Commissioner of Customs.

Approved: May 7, 1992.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 92-12163 Filed 5-22-92; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Transit Administration

23 CFR Ch. I

49 CFR Ch. VI

[FHWA Docket No. 92-14]

Traffic Congestion, Public Transportation Facilities and Equipment, and Intermodal Transportation Facilities and Systems Management Systems; Public Workshops

AGENCIES: Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), DOT.

ACTION: Notice of public workshops.

SUMMARY: The FHWA and the FTA announce that they will hold four one-day public workshops on the development, establishment, and implementation of management systems for traffic congestion, public transportation facilities and equipment, and intermodal transportation facilities and systems. The workshops will address such issues as system scope, application, documentation, certification, and implementation. In addition, coordination and participation among State and local organizations and institutional issues and concerns will be explored.

DATES: The workshops will be conducted between 9 a.m. and 5 p.m. (local time) at the following locations and dates:

June 18, 1992, Westin Bonaventure, 404 South Figueroa Street, Los Angeles, CA 90017.

June 29, 1992, One World Trade Center (North Tower), Oval Room, 43rd Floor, New York, NY 10048.

July 14, 1992, Holiday Inn Chicago City Centre, 300 East Ohio Street, Chicago, IL 60611.

July 21, 1992, Holiday Inn Galleria West Loop, 3131 West Loop South, Houston, TX 77027.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Dane Ismart, Intermodal Division (HEP-50), (202) 366-4071, or Mr. Wilbert Baccus, Office of Chief Counsel (HCC-32), (202) 366-1396. For FTA: Mr. Paul Verchinski, Resource Management Division (TGM-21), (202) 366-6385. Both agencies are located at 400 Seventh Street SW., Washington, DC 20590. Office hours for FHWA are 7:45 a.m. to 4:15 p.m., e.t., and for FTA are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Section 1034 of Public Law 102-240, 105 stat. 1914, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 amended title 23, United States Code, Highways (23 U.S.C.) by adding new section 303 (23 U.S.C. 303), Management Systems, which requires the Secretary of Transportation (the Secretary) to issue regulations within one year after the date of enactment (by December 18, 1992) for State development, establishment, and implementation of six management systems, including traffic congestion, public transportation facilities and equipment, and intermodal transportation facilities and systems. The FHWA and the FTA intend to initiate rulemaking shortly to implement section 1034. Notes of the workshops announced in this notice will be placed in the rulemaking docket.

Workshop Procedures

The following procedures have been established to facilitate the workshops:

1. The workshops will include presentations and discussions on identified issues by individuals and public agencies with an interest in traffic congestion, public transportation facilities and equipment, or intermodal transportation facilities and systems.

2. Persons, either as an individual or representative of any group, organization, agency or association, are encouraged to direct questions to the workshop presenters.

3. Written statements from interested persons will be accepted at the workshops and a copy of each written statement will be placed in the rulemaking docket.

4. Oral statements will be received from the public during the workshops as time permits. All speakers exclusive of the workshop presenters will be limited to a five-minute statement, to provide an opportunity for a wide variety of individuals to make statements at the workshops.

5. Any statements made by the workshop officer or any workshop presenter to clarify issues during the workshop should not be construed as the position of the FHWA or the FTA with respect to the rulemaking proceeding.

6. A summary will be made of each workshop and any material accepted during the workshop, to be included in the record, will be included in FHWA Docket Number 92-14.

7. The workshops are designed to solicit public views and information on the implementation of section 1034. Therefore, the workshops will be conducted in an informal and nonadversarial manner. The workshop officer is entitled to ask questions in order to clarify any statement made at the hearing or the material accepted by the workshop officer during the workshops.

(23 U.S.C. 303 and 315; 49 CFR 1.48 and 151; 49 U.S.C. App. 1607)

Issued on: May 18, 1992.

T.W. Larson,

Administrator, FHWA.

Brian W. Clymer,

Administrator, FTA.

[FR Doc. 92-12151 Filed 5-22-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF EDUCATION

34 CFR Part 200

RIN 1810-AA61

Chapter 1 Program in Local Education Agencies

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Secretary of Education (Secretary) proposes to amend the regulations implementing part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended (Chapter 1). The proposed regulations would (1) assist a local educational agency (LEA) in implementing Chapter 1 programs that serve children in local institutions for neglected or delinquent (N or D) children, including those in adult correctional institutions; (2) allow an LEA to serve non-Chapter 1 children on an incidental basis in its Chapter 1 project; and (3) assist an LEA in implementing Chapter 1 programs to serve educationally deprived homeless children.

These proposed provisions support the President's AMERICA 2000 strategy for achieving the National Education Goals in two important ways. By providing guidance on how better to serve the needs of N or D children and homeless children, these provisions will help ensure that all children are afforded the educational opportunities needed to reach the high levels of achievement envisioned in the National Goals. In addition, proposed provisions to allow non-Chapter 1 students to participate in Chapter 1 programs, under certain circumstances, will enhance the ability of schools to operate programs and use resources more effectively to raise achievement levels of educationally deprived students.

DATES: Comments must be received on or before July 10, 1992.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Mary Jean LeTendre, Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 2043), Washington, DC 20202-6132.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Wendy Jo New, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 2043), Washington, DC 20202-6132. Telephone: (202) 401-0701. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m. Eastern time.

SUPPLEMENTARY INFORMATION:

Local N or D

Part A of chapter 1 of title I of the ESEA provides financial assistance through State educational agencies (SEAs) to LEAs for projects designed to meet the special educational needs of educationally deprived children, including children in institutions for N or D children that are not operated with Federal or State funds, and children in local adult correctional institutions ("local N or D institutions"). Final regulations were published in the **Federal Register** (54 FR 21752) on May 19, 1989.

Historically, the Chapter 1 regulations have not specifically addressed the requirements for projects serving children who reside in local N or D institutions except for provisions pertaining to the allocation of Chapter 1 funds and the definitions of local institutions for neglected children and local institutions for delinquent children. Rather, the basic LEA Chapter 1 program requirements applied for all educationally deprived children in the LEA, including those in local N or D institutions. In response to issues raised in the past by LEAs serving local N or D children, the Department issued nonregulatory guidance and also responded to written inquiries on a case-by-case basis.

Among the characteristics unique to local N or D institutions and the children they serve that make implementing certain current requirements of the Chapter 1 program difficult are the transiency of the population, the needs of the children, and the variation in local N or D institution service designs. Recognizing that the needs of local N or D children may vary considerably from the needs of other educationally deprived children, the Department published a Notice of Intent to Regulate (NOIR) in the **Federal Register** on October 9, 1990. The purpose of this NOIR was to solicit general comment pertaining to the provision of chapter 1 services to children in local N or D institutions, and specific comment on whether additional regulatory guidance is necessary to clarify certain program requirements.

In the NOIR, the Secretary listed ten issues upon which comments were sought on LEAs' need for further clarification and implications of that clarification, including any cost implications, and asked for comments on any other pertinent issues. The following are the ten issues that were listed in the NOIR: (1) Whether all N or D children are eligible for chapter 1 services or whether services may be provided only to educationally deprived N or D children; whether an LEA is required to identify N or D children who are in greatest need and, if so how greatest need should be determined; (2) Whether any additional eligibility requirements such as length of stay should apply; (3) How the provisions in section 1013(c) of Chapter 1 governing allocation of resources on the basis of the number and needs of children to be served apply to services for N or D children; (4) How the parental involvement provisions apply to N or D children if there is no parental contact; (5) How certain requirements, such as those related to size, scope, and quality and schoolwide projects, apply to Chapter 1 programs in local institutions; (6) How program improvement and evaluation requirements apply, given that the N or D population may be transient and the services provided may differ significantly from those provided to other children; (7) The extent to which the application of the supplement, not supplant and comparability requirements is feasible for local N or D services; (8) The extent to which LEAs are responsible for serving N or D children; (9) Whether a local institution must be a residential facility in order for its children to be eligible for Chapter 1 services; (10) The extent to which an LEA may contract with a local institution to provide Chapter 1 services.

The Department received comments from 76 parties. According to those comments, there is great variance among LEAs across the country regarding local N or D institutions, including services provided, institution identification and operation, children served, and needs of children. Because of these differences, if the Secretary were to regulate on many of the issues identified in the NOIR, the Secretary would most likely eliminate some of the flexibility that is currently available in providing Chapter 1 services to local N or D children. The Secretary concluded from the comments, however, that some issues addressed in the NOIR warrant regulation to provide clarification and lend additional flexibility for administering chapter 1 programs that serve local N or D children. The

proposed regulations would amend the definition of "educationally deprived children" in § 200.6 to include children who reside in local institutions for N or D children and in adult correctional institutions; would amend § 200.20 to require an LEA to assure in its project application that Chapter 1 services are designed and implemented in consultation with institutional officials, including instructional and support staff and staff serving as parents; would amend § 200.34 pertaining to parental involvement to clarify that an LEA that provides Chapter 1 services to children who reside in local N or D institutions shall comply, to the extent feasible, with the requirements for the involvement of those children's parents; and would amend the evaluation requirements in § 200.35 to require an LEA, to the extent feasible, to comply with the Chapter 1 evaluation requirements for local N or D children served by Chapter 1 and, if compliance is not feasible, to base its evaluation on the desired outcomes established for the local N or D children.

The proposed regulations would also address the following two other matters not identified in the NOIR.

Incidental Inclusion of Non-Chapter 1 Children

The Secretary recognizes that, because of the instructional method, setting, or time of a particular Chapter 1 services, it is not always reasonable or desirable for an LEA to serve only children who have been selected to participate in a chapter 1 project. This may be particularly true if an LEA is providing Chapter 1 services in the regular classroom. Therefore, the Secretary proposes to reintroduce a provision from the 1981 Title I regulations allowing an LEA to provide, on an incidental basis, chapter 1 services to children who have not been selected to participate in the LEA's chapter 1 project is designed to meet the special educational needs of educationally deprived children and is forcused on those children, and the inclusion of non-Chapter 1 children does not decrease the amount, duration, or quality of chapter 1 services for chapter 1 children, increase the cost of providing the services, or result in the exclusion of children who would otherwise receive chapter 1 services. This provision is added in § 200.31(d).

The Secretary believes that this provision will allow LEAs to take advantage of a wider range of instructional options in order to meet more effectively the educational needs of educationally deprived children. Incidental inclusion will also allow LEAs to align the chapter 1 program more closely with the regular program of instruction and reduce the isolation of Chapter 1 children from their peers.

Homeless Children

Under section 722(e)(5) of the Stewart B. McKinney Homeless Assistance Act, a State receiving funds under the Act is required to include in its State plan a provision to ensure that "[e]ach homeless child shall be provided services comparable to services offered other students in the school * * * including educational services for which the child meets the eligibility criteria, such as compensatory educational programs for the disadvantaged * * *." Homeless children, by definition, do not have a fixed, regular, and adequate night-time residence. Those children, therefore, cannot meet the basic chapter 1 eligibility requirement that they reside in a project area to receive chapter 1 services. To remedy this problem, the Secretary proposes to amend § 200.31 of the chapter 1 regulations to make educationally deprived homeless children eligible for chapter 1 services without regard to their area of residence. In addition, the Secretary proposes to require an LEA to identify all educationally deprived homeless children in the LEA. If those children attend chapter 1 project schools, they would be selected for services on the same basis as other educationally deprived children in those schools. Because of the extraordinary needs of homeless children, the proposed changes also would allow an LEA to provide chapter 1 services to educationally deprived homeless children who do not attend chapter 1 project schools.

Executive Order 12291

The proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by these proposed regulations are small LEAs receiving Federal funds under this part. However, the regulations would not have a significant economic impact on the small LEAs affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 200.20, 200.31, and 200.35 contain an information collection requirement. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

Local educational agencies are eligible to apply to SEAs for chapter 1 funds under these regulations. Chapter 1 funds are allocated annually to SEAs. The SEAs, in turn, suballocate chapter 1 funds to the LEAs for support of local chapter 1 projects. The Department itself does not use the information. Rather, it is used by SEAs and LEAs for their administration of the chapter 1 program.

The annual recordkeeping burden currently under review under OMB Control No. 1810–0504; is, for 14,199 recordkeepers, a total of 410,110 hours. The annual recordkeeping and reporting burden currently under review under OMB Control No. 1810–0037 is, for 53 respondents, a total of 23,221 hours.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503, Attention: Daniel J. Chenok.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. In particular, the Secretary requests comments concerning two matters: (1) The provision in § 200.31(b)(1)(ii) that would require an LEA to identify educationally deprived homeless children, regardless of their residence, in all school attendance areas; and (2) suggested standards that LEAs should follow to demonstrate that the inclusion of non-chapter 1 children in chapter 1 activities is truly incidental and neither increases the cost of nor dilutes chapter 1 services.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 2043, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the

Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 200

Administrative practice and procedure, Education of disadvantaged, Elementary and secondary education, Grant program—education, Juvenile delinquency, Neglected, Private schools, Reporting and recordkeeping requirements, State-administered programs.

(Catalog of Federal Domestic Assistance Numbers: 84.010, Chapter 1 Program in Local Educational Agencies; 84.012, Chapter 1 Program—State Administration)

Dated: May 7, 1992.

Lamar Alexander,

Secretary of Education.

The Secretary proposes to amend part 200 of title 34 of the Code of Federal Regulations as follows:

PART 200—CHAPTER 1 PROGRAM IN LOCAL EDUCATIONAL AGENCIES

1. The authority citation for part 200 continues to read as follows:

Authority: 20 U.S.C. 2701–2731, 2821–2838, 2851–2854, 2891–2901, unless otherwise noted.

2. Section 200.6 is amended by revising the definition of *Educationally deprived children* in paragraph (c) to read as follows:

§ 200.6 What definitions apply to the Chapter 1 LEA Program?

* * * * *

(c) * * *

Educationally deprived children means children—

(1) Whose educational attainment is below the level that is appropriate for children of their age; or

(2) Who reside in local institutions for neglected or delinquent children, including adult correctional institutions.

* * * * *

3. Section 200.20 is amended by revising paragraph (a)(10)(i)(B), removing the word "and" at the end of paragraph (a)(10)(i)(D), and adding a new paragraph (a)(10)(i)(F) to read as follows:

§ 200.20 How does an LEA apply for a subgrant?

(a) * * *

(10) * * *

(i) * * *

(B) Are designed and implemented in consultation with teachers (including early childhood professionals, pupil services personnel, and librarians, if appropriate) and, for children residing in local institutions for neglected or delinquent children, with institutional officials (including instructional and support staff, and staff serving as parents);

* * * * *

(F) Provide chapter 1 services to homeless children, if appropriate; and

* * * * *

4. Section 200.31 is amended by revising paragraphs (b) (1) and (2) and by adding new paragraphs (c)(6) and (d) to read as follows:

§ 200.31 How does an LEA identify and select children to participate?

* * * * *

(b) * * *

(1) Identify educationally deprived children, as defined in § 200.6(c), including educationally deprived children in private schools, in all eligible school attendance areas, and educationally deprived homeless children, regardless of their residence.

(2) On the basis of information obtained under paragraph (b)(1) of this section, including information concerning educationally deprived children in private schools and educationally deprived homeless children, identify the general instructional areas and grade levels on which the program will focus. Instructional areas and grade levels may vary among and within school attendance areas if the needs assessment data support those variations.

* * * * *

(c) * * *

(6) An LEA may use funds available under this part to serve educationally deprived homeless children who do not attend chapter 1 project schools.

(d) *Incidental inclusion of non-Chapter 1 children.* An LEA may provide, on an incidental basis, chapter 1 services to children who have not been selected to participate in the LEA's chapter 1 project if—

(1) The chapter 1 project is designed to meet the special educational needs of chapter 1 children and is focused on those children; and

(2) The LEA is able to demonstrate that the inclusion of non-Chapter 1 children on an incidental basis does not—

(i) Decrease the amount, duration, or quality of chapter 1 services received by the children who have been selected;

(ii) Increase the cost of providing the services; or

(iii) Result in the exclusion of children who would otherwise receive chapter 1 services.

5. Section 200.34 is amended by adding a new paragraph (a)(4) to read as follows:

§ 200.34 How does an LEA involve parents?

(a) * * *

(4) An LEA that provides chapter 1 services to children who reside in local institutions for neglected or delinquent children shall comply, to the extent feasible, with the requirements in this section.

* * * * *

6. Section 200.35 is amended by redesignating paragraph (a)(3) as (a)(4) and by adding a new paragraph (a)(3) to read as follows:

§ 200.35 What are the requirements for evaluating and reporting project results?

(a) * * *

(3)(i) An LEA that provides chapter 1 services to children who reside in local institutions for neglected or delinquent children shall comply, to the extent feasible, with the evaluation requirements in paragraph (a) of this section.

(ii) If compliance is not feasible, the LEA shall base its evaluation on the success in meeting desired outcomes the LEA established for the neglected or delinquent children.

* * * * *

[FR Doc. 92–12146 Filed 5–22–92; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[FRL 4137–2]

National Pollutant Discharge Elimination System, Announcement of National Meetings to Consider Options for Controlling Sources of Stormwater Pollution

AGENCY: Environmental Protection Agency (EPA).

SUMMARY: EPA is holding national meetings to get public input on section 402(p)(6) of the Clean Water Act, which addresses Phase II of the stormwater program and requires EPA to issue a regulation by October 1, 1992. The regulation must designate additional storm water discharges to be regulated to protect water quality and establish a comprehensive program to regulate such designated sources. Congress has left the precise scope and nature of the applicable controls under Phase II for EPA to define. Public input will help

EPA evaluate options for designating and controlling Phase II sources.

DATES: Public meetings will be held on the following dates:

(1) June 12, 1992 from 9 a.m. to 4 p.m.,

(2) June 15, 1992 from 9 a.m. to 4 p.m., and

(3) June 19, 1992 from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The respective meeting locations for the dates listed above are:

(1) The Denver Marriott City Center, Denver, Colorado.

(2) The San Francisco Hilton Hotel, San Francisco, CA.

(3) The Holiday Inn National Airport, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Barbara Brozan of the Rensselaerville Institute in Rensselaerville, New York, at (518) 797–3783.

SUPPLEMENTARY INFORMATION: The Water Quality Act of 1987 added section 402(p) to the Clean Water Act. This section requires the Environmental Protection Agency to establish phased regulations for the control of storm water discharges under the National Pollutant Discharge Elimination system (NPDES) program.

The first phase of the stormwater program is well underway This phase involves the permitting of discharges from storm sewer systems serving a population of 100,000 or more. The basic permitting framework for Phase I was established on November 16, 1990 (55 FR 47990). The framework provides industrial facilities with three options for applying for NPDES permit coverage. They may submit a notice to be covered by a general permit. Municipal operators of municipal separate storm sewer systems serving a population of 100,000 or more must develop and implement storm water management programs within their service areas.

Section 402(p)(6) of the CWA, which is the focus of this notice, addresses Phase II of the storm water program and requires EPA to issue a regulation by October 1, 1992. The regulation must designate additional storm water discharges to be regulated to protect water quality and establish a comprehensive program to regulate such designated sources. Congress has left the precise scope and nature of the applicable controls under Phase II for EPA to define. Public input will help EPA evaluate options for designating and controlling Phase II sources.

Dated: May 21, 1992.

Michael B. Cook,

Director, Office of Wastewater, Enforcement and Compliance.

[FR Doc. 92–12295 Filed 5–22–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–112, RM–7982]

Radio Broadcasting Services; Hawkinsville, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Tri-County Broadcasting Co. proposing the substitution of Channel 280C3 for Channel 280A at Hawkinsville, Georgia, and modification of its license for Station WCEH(FM) to specify the higher powered channel. Channel 280C3 can be allotted to Hawkinsville in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.9 kilometers (13 miles) southwest to accommodate petitioner's desired site. The coordinates are North Latitude 32–10–32 and West Longitude 83–39–11.

DATES: Comments must be filed on or before July 13, 1992, and reply comments on or before July 28, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dan J. Alpert, Ginsburg, Feldman & Bress, Chartered, 1250 Connecticut Avenue NW., suite 800, Washington, DC 20036 (Counsel for Tri-County Broadcasting Co.).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rule making, MM Docket No. 92–112, adopted May 8, 1992, and released May 19, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Acting Chief, Allocations Branch Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–12100 Filed 5–22–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–108, RM–7970]

Radio Broadcasting Services; St. Joseph, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by St. Joseph Broadcasters requesting the allotment of Channel 225C3 to St. Joseph, Minnesota, as that community's first local service. There is a site restriction 7.3 kilometers (4.5 miles) northwest of the community. The coordinates for Channel 225C3 are 45–37–14 and 94–22–05.

DATES: Comments must be filed on or before July 13, 1992, and reply comments on or before July 28, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Gregg Skall, Louise Cybulski, Pepper & Corazzini, 200 Montgomery Building, 1776 K Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's notice of proposed rule making, MM Docket No. 92–108, adopted May 8, 1992, and released May 19, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete test of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street NW., Washington, DC 20036, (202) 452–1422.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public school note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger.

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–12099 Filed 5–22–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–113, RM–7983]

Radio Broadcasting Services; Huntsville, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by New Wavo Communication Group, Inc., seeking the substitution of Channel 279C3 for Channel 278A at Huntsville, Texas, and the modification of Station KVST–FM's construction permit to specify operation on the higher powered channel. Channel 279C3 can be allotted to Huntsville in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.4 kilometers (1.5 miles) east to accommodate New Wavo's desired site. The coordinates for Channel 279C3 are 30–43–24 and 95–31–30. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 279C3 at Huntsville or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before May 8, 1992, and reply comments on or before May 19, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Patricia A. Mahoney, Esq., Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., suite 400, Washington, DC 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rule making, MM Dockets No. 92–113, adopted May 8, 1992, and released May 19, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–12101, Filed 5–22–92; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1020

[Ex Parte No. 55 (Sub. 89)]

Inspection of Records

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to remove 49 CFR part 1020—Inspection of Records—from the Code of Federal Regulations as unnecessary and redundant. This proposed rule is intended to make the Commission's regulations up to date.

DATES: Comments must be received by June 25, 1992.

ADDRESSES: Send an original and 10 copies of comments, referring to Ex Parte No. 55 (Sub No. 89) to:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927–5312, (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: This regulation, which empowers Commission personnel to inspect motor carrier and broker property and records, essentially paraphrases 49 U.S.C. 11144(b). Other than to clarify that receivers, trustees and representatives having control, direct or indirect, over, or affiliated with any such motor carrier or broker, are included in the class of persons whose records are subject to inspection, part 1020 contains nothing that is not expressly stated in the statute. It appears to satisfy no legal requirement, or serve any other useful purpose. We wish to emphasize that in eliminating this regulation, we intend no change in existing law. The scope of the statute, as interpreted by the Commission and clarified by the regulation, remains the same.

We invite comments from interested persons on this proposal.

We tentatively conclude that the proposed action will have no adverse impact upon a significant number of small entities.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1020

Brokers, Motor carriers.

Decided: May 18, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, under 49 U.S.C. 10321 and 5 U.S.C. 553, title 49, chapter X, part 1020 of the Code of Federal Regulations is proposed to be amended by removing part 1020 as follows:

PART 1020—EXAMINATION OF RECORDS AND ACCOUNTS BY AGENTS OF COMMISSION [REMOVED]

[FR Doc. 92-12198 Filed 5-22-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB75

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Plant Amaranthus Pumilus (Seabeach Amaranth)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list *Amaranthus pumilus* (seabeach amaranth) as a threatened species under the authority of the Endangered Species Act of 1973, as amended (Act). This annual herb is limited to populations in New York, North Carolina and South Carolina. *Amaranthus pumilus* is threatened by beach stabilization structures, off-road vehicles (ORVs), beach erosion and tidal inundation, beach grooming, and herbivory by insects and feral animals. This proposal, if made final, would implement Federal protection provided by the Act for *Amaranthus pumilus*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by July 27, 1992. Public hearing requests must be received by July 10, 1992.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Nora Murdock at the above address (704/665-1195).

SUPPLEMENTARY INFORMATION:

Background

Amaranthus pumilus, described by C.S. Rafinesque (1808) from material collected in New Jersey, is an annual plant in the Amaranth family. Germination takes place over a relatively long period of time, generally from April to July. Upon germinating, this plant initially forms a small unbranched sprig, but soon begins to branch profusely into a clump, often reaching a foot in diameter and consisting of 5 to 20 branches. Occasionally a clump may get as large as a yard or more across, with a hundred or more branches. The stems are fleshy and pink-red or reddish, with small rounded leaves that are half an inch to an inch in diameter. The leaves are clustered toward the tip of the stem, are normally a spinach-green color, and have a small notch at the rounded tip. Flowers and fruits are relatively inconspicuous, borne in clusters along the stems. Flowering begins as soon as plants have reached sufficient size, sometimes as early as June, but more typically commencing in July and continuing until the death of the plant in late fall. Seed production begins in July or August and reaches a peak in most years in September but continues until the death of the plant.

Weather events, including rainfall, hurricanes, and temperature extremes, and predation by webworms have strong effects on the length of seabeach amaranth's reproductive season. As a result of one or more of these influences, the flowering and fruiting period can be terminated as early as June or July. Under favorable circumstances, however, the reproductive season may extend until January, or sometimes later (Bucher and Weakley 1990, Weakley and Bucher 1991, Radford *et al.* 1968).

Amaranthus pumilus is endemic to Atlantic coastal plain beaches, where it is currently known from 13 populations in New York, 34 populations in North Carolina, and 8 populations in South Carolina. The species occur on barrier island beaches, where its primary habitat consists of overwash flats at accreting ends of islands and lower foredunes and upper strands of noneroding beaches. It occasionally establishes small temporary populations in other habitats, including sound-side beaches, blowouts in foredunes, and sand and shell material placed as beach replenishment or dredge spoil. Seabeach amaranth appears to be intolerant of competition and does not occur on well-vegetated sites. The plant acts as a sand binder, with a single large plant being capable of creating a dune up to 6 decimeters high, containing 2 to 3 cubic meters of sand, although most are smaller (Weakley and Bucher 1991). As stated by Weakley and Bucher (1991):

> Seabeach amaranth appears to need extensive areas of barrier island beaches and inlets, functioning in a relatively natural and dynamic manner. This allows it to move around in the landscape, as a fugitive species, to occupy suitable habitat as it becomes available.

Historically, seabeach amaranth occurred in 31 counties in 9 States from Massachusetts to South Carolina. Seabeach amaranth has now been eliminated from six of the States in its historic range. Of the 55 remaining populations in New York, North Carolina, and South Carolina, 9 are located on lands administered by the National Park Service, 1 is on land administered by the Department of Defense, 1 is on New York City park land, 9 are on State parks and reserves, 3 are on county parks, 2 and part of another are on municipal land, 1 is on land administered by the U.S. Fish and Wildlife Service, and the remaining 28 and part of another population are on private lands. The 41 populations known to have been extirpated are believed to have succumbed as a result of "hard" beach stabilization structures (seawalls, rip rap, etc.), storm-related erosion, heavy recreational beach use by ORVs, and possibly as a result of herbivory by webworms. The continued existence of *Amaranthus pumilus* is threatened by these activities, as well as by beach grooming and some forms of "soft" beach stabilization, such as sand fencing and planting of beach-grasses.

The Service recognized *Amaranthus pumilus* as a category 2 candidate for listing in the Supplement to Review of Plant Taxa for Listing as Endangered or Threatened Species published in the **Federal Register** on November 28, 1983 (48 FR 53640). Category 2 comprises those taxa for which listing is possibly appropriate but for which existing information is insufficient to support a proposed rule. Subsequent revisions of the 1983 notice have maintained *Amaranthus pumilus* in category 2. Recent surveys have been conducted by Service, State, and Nature Conservancy personnel, and the Service now believes sufficient information exists to proceed with a proposal to list *Amaranthus pumilus* as threatened.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Amaranthus pumilus* Rafinesque (seabeach amaranth) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Amaranthus pumilus has been and continues to be threatened by destruction or adverse alteration of its habitat. Since the species was discovered, it has been eliminated from approximately two-thirds of its range, primarily as a result of beach stabilization efforts and storm-related erosion. All of the remaining 55 populations are currently threatened by these factors (Bucher and Weakley 1990, Weakley and Bucher 1991, Clemants and Mangels 1990, Mangels 1991).

In September of 1989, Hurricane Hugo struck the Atlantic coast near Charleston, South Carolina, causing extensive flooding and erosion north to Cape Fear, North Carolina, with less severe effects extending northward throughout the range of seabeach amaranth. This was followed by several severe Northeasters in the winter of 1989–1990 and by Hurricane Bertha in the late summer of 1990. These last storms, although not as significant as Hurricane Hugo, caused substantial erosion of many barrier islands in the heart of seabeach amaranth's remaining range. The 1990 surveys revealed that the effects of these climatic events were substantial. Thirteen populations of the species reappeared on Long Island, New York, many in places that had been surveyed repeatedly in the past (Mangels 1991). As stated by Weakley and Bucher (1991):

> It is not known whether these populations represented long-distance dispersal of seeds (perhaps by ocean currents), short-distance dispersal from previously undiscovered populations on Long Island, or the exposure of local seedbanks.

In the Carolinas, populations were severely reduced. In South Carolina, where the effects of Hurricane Hugo and subsequent dune reconstruction were extensive, amaranth numbers went from 1,800 in 1988 to 188 in 1990, a reduction of 90 percent. Even with the addition of the New York populations, rangewide totals were reduced 76 percent from 1988. Ironically, although storms and related erosion of beaches threaten seabeach amaranth because of its currently restricted range and reduced populations, attempts to stabilize beaches against these natural geophysical processes is often more destructive to the species and to the beaches themselves in the long run. Weakley and Bucher (1991) state:

> Seabeach amaranth never occurs on shorelines where bulkheads, seawalls, or rip rap zones have been constructed. Not only does construction of these structures occur in the primary habitat of seabeach amaranth, but water and wind erosion lower the profile of the beach seaward of the armoring. The upper beach habitat required by seabeach amaranth (above inundation by tidal action) ceases to exist as the beach is steadily eroded. * * * widespread use of seawalls, jetties, and other hard stabilization structures in New Jersey and other northern states is apparently associated with the extirpation of seabeach amaranth in those states. Of all the states in the former range of seabeach amaranth, North Carolina has made the least use of seawalls. The continued presence of seabeach amaranth in North Carolina and in the part of South Carolina's coast lacking seawalls, is probably not accidental or coincidental.

Even nonstructural beach stabilization techniques, such as sand fences and planting of beach-grass, are generally detrimental to seabeach amaranth. Weakley and Bucher (1991) noted that seabeach amaranth only very rarely occurred where sand fences and vegetative stabilization had taken place and, in these situations, was present only as rare scattered individuals.

In some instances beach erosion and lowering of barrier islands has been accelerated by manmade structures built far from the ocean. Damming of large coastal rivers reduces the sediment load carried by the rivers to the coastal environment. Weakley and Bucher (1991) state:

> There is evidence in several cases that this has reduced the coastal sediment budget, leading to increased erosion rates. Construction of the Santee Dam on the Santee River in South Carolina, impounding Lake Marion, has probably caused the increased erosion of islands in the vicinity of the mouth of the Santee * * * all of the islands in the vicinity of the Santee's mouth are currently marginal habitat for seabeach amaranth, and it has been extirpated from a number of islands by the frequency of overwash.

Beach renourishment can have positive impacts on this species. Although more study is needed before the long-term impacts can be accurately assessed, several populations are known to have established themselves on renourished beaches and have thrived through subsequent applications of dredged material (Weakley and Bucher 1991; W. Adams, U.S. Army Corps of Engineers, personal communication, 1991).

Intensive recreational use of beaches threatens amaranth populations in some instances. Pedestrian traffic, even during the growing season, generally occurs in areas where it has little effect on populations of seabeach amaranth. However, ORV use of the beach during the growing season does have detrimental effects on the species. The fleshy stems of this plant are brittle and easily broken and do not generally survive even a single pass by a truck tire. Therefore, even minor beach traffic during the growing season is detrimental, causing mortality and reduced seed production (Weakley and Bucher 1991). ORV traffic is allowed at many of the beaches where this species remains, and these sites generally show severe declines of seabeach amaranth. In contrast, dormant season ORV use has shown little evidence of significant detrimental effects, unless it results in massive physical erosion or degradation of the site. In some cases, winter ORV traffic may actually provide some benefits for the species by setting back succession of perennial grasses and shrubs with which seabeach amaranth cannot compete successfully. Extremely heavy use of an *Amaranthus* site, even in the winter, may have some negative impacts, however, including pulverization of seeds.

Seabeach amaranth appears to be vulnerable to extirpation in two of the three States in which it remains. South Carolina now has only one population with over a hundred plants and a total State census of 188 plants, and New York has only one population with over a hundred plants and a total State census of 357 plants. The many very small populations remaining are highly vulnerable to extirpation from a variety of natural and manmade factors.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Amaranthus pumilus, although it does not have showy flowers and is not currently a component of the commercial trade in native plants, is an attractive and colorful plant, with a prostrate growth habitat that could lend itself to planting on beach-front lots. Its effectiveness as a sand binder could make it even more attractive for this purpose. In addition, other amaranths have been cultivated as food crops in North, Central, and South America for

nearly 10,000 years and continue to be grown as important crops in temperate and tropical climates throughout the world. "Its importance is magnified by its nutritional value, high in several amino acids often lacking in diets with little meat" (Weakley and Bucher 1991). Currently, seabeach amaranth is being investigated by the U.S. Department of Agriculture and several universities and private institutes for its potential use in crop development and improvement. Its favorable traits of salt tolerance and large seeds could be of commercial value if combined with other desirable crop traits. However, overcollection of seabeach amaranth plants or seeds from wild populations could threaten its continued existence. Because the species is easily recognizable and accessible, it is vulnerable to taking, vandalism, and the incidental trampling by curiosity seekers that could result from increased publicity about the species and the specific areas where it grows.

C. Disease or Predation

No evidence of disease has been seen in seabeach amaranth. However, predation by webworms is a major source of mortality and lowered fecundity. Moderate to severe herbivory by webworms was seen in most populations in both 1987 and 1988, when many populations, particularly the larger ones, were largely defoliated by early fall. Weakley and Bucher (1991) state, "Defoliation at this season appears to result in premature senescence and mortality, reducing seed production (the most basic and critical parameter in the life cycle of an annual species)." Even though the four webworm species so far identified on seabeach amaranth are all native, their use of barrier island habitats has probably been increased by extensive conversion of coastal plain ecosystems to agricultural use and the resulting introduction of weedy plants, which also serve as hosts for the caterpillars. Therefore, the level of predation experienced by seabeach amaranth is probably unnaturally high. Weakley and Bucher (1991) believe that webworm herbivory is a contributing, rather than a leading, factor in the decline of the species. They state, "The combination of extensive habitat alteration and chronic severe herbivory could be a deadly one for seabeach amaranth." On North Carolina's Outer Banks, feral horses graze on seabeach amaranth. The extent and impact of this herbivory, however, is minor compared to the effects of webworm predation.

D. The Inadequacy of Existing Regulatory Mechanisms

Amaranthus pumilus is afforded legal protection in North Carolina by North Carolina general statutes, § 106–202.122, 106–202.19 (Cum. Sup. 1985), which provide for protection from intrastate trade (without a permit) and for monitoring and management of State-listed species, and which prohibit taking of plants without written permission of landowners. *Amaranthus pumilus* is listed in North Carolina as threatened. The species is recognized in South Carolina as threatened and of national concern by the South Carolina Advisory Committee on Rare, Threatened, and Endangered Plants in South Carolina; however, this State offers no official protection. In New York the species is not currently listed, since it was only recently rediscovered there. State legislation offers no protection to the habitat of seabeach amaranth in any of the three States where it remains, and habitat loss/modification and predation seem to be the main threats to the continued existence of the species. Federal/State regulation of development in coastal areas under the Coastal Areas Management Act has undoubtedly helped protect the habitat of seabeach amaranth; however, the scope of these regulations is limited and does not preclude all forms of habitat degradation that adversely affect this species. The Endangered Species Act would provide additional protection and encouragement of active management and recovery actions for *Amaranthus pumilus*.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Little is known about the demographics and reproductive requirements of this species in the wild. As a fugitive species dependent on a dynamic landscape and large-scale geophysical processes, seabeach amaranth is extremely vulnerable to habitat fragmentation and isolation of small populations. As stated by Weakley and Bucher (1991):

> In New Jersey and New York, it has been extirpated or severely diminished by the fortification and modification of a *portion only* of the coastline. Rendering 50 percent or 75 percent of a coastline "permanently" unsuitable may doom seabeach amaranth, because any given area will become unsuitable at some time because of natural forces. If a seed source is no longer available in the vicinity, amaranth will be unable to reestablish itself when the area is once again suitable. In this way, it can be progressively eliminated even from generally favorable stretches of habitat surrounded by "permanently" unfavorable areas * * * fragmentation of habitat in the north has apparently led to regional extirpation, resulting from the separation of suitable habitat areas from one another by too great a distance to allow recolonization following natural catastrophes. Though apparently suitable habitat is present in a number of northern states formerly part of seabeach amaranth's range, it is no longer found there * * * seabeach amaranth grows above the high tide line, and is intolerant of even occasional flooding during its growing season. It does not, however, grow more than a meter or so above the beach elevation on the foredune or anywhere behind the foredune (except very rarely and extraordinarily). It is, therefore, dependent on a terrestrial, upper beach habitat, unflooded during the growing season from May into the fall. This zone is absent on barrier islands that are experiencing significant rates of beach erosion. If data and hypotheses suggesting future increases in sea level are correct, beach erosion will accelerate and put further pressure on seabeach amaranth.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Amaranthus pumilus* as threatened. With the species already having been extirpated from two-thirds of its historic range, and based upon the threats to most of the remaining populations, it warrants protection under the Act. Threatened status seems appropriate since there are 55 remaining populations, including some large ones in areas protected from development and beach stabilization.

Critical habitat is not being designated for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Amaranthus pumilus* at this time. As discussed in Factor B in the "Summary of Factors Affecting the Species," *Amaranthus pumilus* is vulnerable to taking, and taking prohibitions are difficult to enforce. Take is regulated by the Act with respect to threatened plants only in cases of removal and reduction to possession from lands under Federal jurisdiction. Most populations of *Amaranthus pumilus* are located on private lands. Although North Carolina general statutes prohibit collection of *Amaranthus pumilus* without permission from the landowner, unlawful taking is

difficult to enforce, and publication of critical habitat descriptions would make it more vulnerable, increasing enforcement problems for the State of North Carolina. In addition, while listing under the Act increases public awareness of the species' plight, it can also increase the desirability of a species to collectors. As stated previously, *Amaranthus pumilus* is an attractive plant, whose populations are easily accessible. It also could be adversely affected by increased visits to and associated trampling of occupied sites by curiosity seekers as a result of critical habitat designation and accompanying increases in specific publicity.

An additional factor making critical habitat designation not prudent for this species concerns the tendency for its distribution to be very variable. The discussion in the "Background" section contains a quote from Weakley and Bucher (1991) concerning the "fugitive" nature of seabeach amaranth. Because of the dynamic character of barrier island beaches and inlets, the quantity and location of suitable habitat for seabeach amaranth is potentially subject to considerable change both within and between years. The passage of a hurricane or a severe storm may eliminate the species from some areas, while also creating habitat in other areas. The new habitat in turn may eventually become colonized and produce populations larger than the ones that were lost. This plant's lack of tolerance for competition from other plants, and the fact that its continued existence and abundance is also dependent upon the fate of its seed production further contribute to its lack of permanence at any one location and negate the practicality of designating critical habitat.

For all of the foregoing reasons, it would not be prudent to determine critical habitat for *Amaranthus pumilus*. The Federal and State agencies and landowners involved in protecting and managing the habitat of this species have been informed of the plant's locations and the importance of its protection. Protection of this species' habitat will be addressed through the recovery process and through the section 7 consultation process.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If the species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal activities that could impact *Amaranthus pumilus* and its habitat in the future include, but are not limited to, the following: Construction of beach stabilization structures, such as jetties, groins, bulkheads, and sand fences; beach renourishment and deposition of dredged spoil; and regulation of recreational beach use on Federal lands. The Service will work with the involved agencies to secure protection and proper management of *Amaranthus pumilus* while accommodating agency activities to the extent possible.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers.

In addition, for endangered plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulations. This protection may apply to threatened plants once revised regulations are promulgated. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances.

It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or in the wild. Requests for copies of the regulations on listed plants and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 (703/358–2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into

consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and should be addressed to the Field Supervisor, Asheville Field Office (see "**ADDRESSES**" section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Bucher, M., and A. Weakley. 1990. Status survey of seabeach amaranth (*Amaranthus pumilus* Rafinesque) in North and South Carolina. Report to North Carolina Plant Conservation Program, North Carolina Department of Agriculture, Raleigh, NC, and Endangered Species Field Office, U.S. Fish and Wildlife Service, Asheville, NC. 149 pp.

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Mangels, C. 1991. Seabeach amaranth in New York State. New York Flora Association Newsletter 2(2):7–8.

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Weakley, A., and M. Bucher. 1991. Status survey of seabeach amaranth (*Amaranthus pumilus* Rafinesque) in North and South Carolina, second edition (after Hurricane Hugo). Report to North Carolina Plant Conservation Program, North Carolina Department of Agriculture, Raleigh, NC, and Endangered Species Field Office, U.S. Fish and Wildlife Service, Asheville, NC. 149 pp.

Author

The primary author of this proposed rule is Ms. Nora Murdock (see "**ADDRESSES**" section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

(1) The authority citation for 50 CFR part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

(2) It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Amaranthaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species			Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*	*	
Amaranthaceae—Amaranth family:							
*	*	*	*	*	*	*	
Amaranthus pumilus	Seabeach amaranth		U.S.A. (DE, MA, MD, NC, NJ, NY, RI, SC, and VA).	T		NA	NA
*	*	*	*	*	*	*	

Dated: May 11, 1992.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92–12149 Filed 5–22–92; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB75

Endangered and Threatened Wildlife and Plants; Proposal to List the Carolina Heelsplitter as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list the Carolina heelsplitter *(Lasmigona decorata)* as an endangered species under the Endangered Species Act of 1973, as amended (Act). This species was historically known from several locations within the Catawba River and Pee Dee River systems in North Carolina and the Saluna and Pee Dee River systems in South Carolina. It is presently known to be surviving in only a few short reaches of Waxhaw Creek (Catawba River system) and Goose Creek (Pee Dee River system) in North Carolina, and the Lynches River (Pee Dee River system) and Flat Creek, a tributory to the Lynches River, in South Carolina. The species' range has been seriously reduced by impoundments and general deterioration of habitat and

water quality resulting from siltation and other pollutants contributed by poor land use practices. Due to the speices' limited distribution, any factors that adversely modify habitat or water quality in the stream reaches it now inhabits could further endanger the species. Comments and information pertaining to this proposal are sought from the public.

DATES: Comments from all interested parties must be received by July 27, 1992. Public hearing requests must be received by July 10, 1992.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. John Fridell at the above address (704/665–1195).

SUPPLEMENTARY INFORMATION:

Background

The Carolina heelsplitter was originally described as *Unio decoratus* by Lea (1852). In 1970, this species was synonyomized with *Lasmigona subviridis* (Conrad 1835) by Johnson (1970). Clarke (1985) recognized the Carolina heelsplitter as a distinct species, *Lasmigona decorata*, and synonymized *Unio charlottensis* (Lea 1863) and *Unio insolidus* (Lea 1872) with *Lasmigona decorata*.

The Carolina heelsplitter has an ovate, trapezoid-shaped, unsculptured shell. The shell of the largest known specimen of the species measures 118.0 mm in length, 40 mm in width, and 63.5 mm in height (Keferl 1991). The shell's outer surface varies from greenish-brown to dark brown in color, and shells from younger specimen have faint greenish-brown or black rays. The nacre (inside surface) is often pearly-white to bluish-white, grading to orange in the area of the umbo (Keferl 1991). However, in older specimens the entire nacre may be motfled pale orange (Keferl 1991).

Because of its rarity, little is known of the biology of the Carolina heelspliter. Historically the species was reported from small to large streams and rivers, as well as ponds. The "ponds" referred to in historic records are believed to have been mill ponds on some of the smaller streams within the species' historic range (Keferl 1991). Presently, the species is known to occur in only three small streams and one small river and is usually found in mud, muddy sand, or muddy gravel substrates along stable, well-shaded streambanks (Keferl and Shelly 1988, Keferl 1991). The stability of streambanks appears to be very important to the species (Keferl 1991). Like other freshwater mussels, the Carolina heelsplitter feeds by filtering food particles from the water. It has a complex reproductive cycle in which the mussel larvae (glochidia) parasitize fish. The mussel's life span, fish species its larvae parasitize, and many other aspects of its life history are unknown.

Prior to 1987, the Carolinia heelspliter had not been found since the mid-19th century (Keferl and Shelly 1988, Keferl 1991). Historically, the species was collected from the Catawba River, Mecklenberg County, North Carolina; several streams and "ponds" in the Catawba River system around the Charlotte area of Mecklenberg County, North Carolina; one small stream in the Pee Dee River system in Cabarrus County, North Carolina; and an area in South Carolina referred to as the "Abbeville District," a terminology no longer employed (Clarke 1985, Keferl and Shelly 1988, Keferl 1991). The records from the Abeville District, South Carolina, are believed to have been from the Saluda River system (Clarke 1985, Keferl and Shelly 1988, Keferl 1991).

During the period of 1987–1990, the Service funded status surveys of the Carolina heelsplitter to determine the species' present status. Altogether, 667 different sites in 356 different rivers, streams, and impoundments within historic and potential habitat of the species in the Saluda River, Catawba River, Pee Dee River, Broad River, Rocky River, and Lynches River systems were intensively surveyed (Keferl and Shelly 1988, Keferl 1991). The Carolina heelsplitter was found to have been eliminated from all the streams from which it was known to have been historically collected, and only three surviving populations were found. One small remnant population was found in the Catawba River system in Waxhaw Creek, a tributary to the Catawba River, in Union County, North Carolina; another small population was discovered in a short stretch of Goose Creek, a tributary to the Rocky River in the Pee Dee River system, in Union County, North Carolina; and a third, slightly larger, population was discovered in the Lynches River, part of the Pee Dee River system, in Chesterfield, Lancaster, and Kershaw Counties, South Carolina, and Flat Creek, a tributary to the Lynches River in Lancaster County, South Carolina. No evidence of a surviving population was found anywhere in the Saluda River system, and no evidence of the species was in the Broad River system.

Habitat and water quality degradation/alteration resulting from impoundments, stream channelization, dredging, sand mining, sewage effluents, and poorly implemented agricultural, forestry, and development practices are believed to be the primary factors resulting in the elimination of the species throughout the majority of its historic range. All three of the remaining populations discovered by Keferl (1991) are located in areas bordered entirely, with the exception of State bridge and road rights-of-way, by private lands and are threatened by these same factors. Both the Waxhaw Creek and Goose Creek populations are threatened by impacts associated with agriculture, logging, and construction and development activities. The Flat Creek portion of the Lynches River/Flat Creek population at present does not appear to be affected by human-related habitat destruction/alteration activities. However, the Lynches River is suffering the same problems occurring in the Waxhaw and Goose Creeks drainages, and this stream reach is also being impacted by heavy nutrient and pollutant loads from wastewater treatment plants, as well from other point and nonpoint sources.

The Carolina heelsplitter was recognized by the Service in the January 6, 1989, **Federal Register** (54(4):579) as a species being reviewed for potential addition to the Federal List of Endangered and Threatened Wildlife and Plants. This mussel was placed in category 2 on this candidate list. Category 2 species are those for which the Service has some information indicating that the taxa may be under threat, but sufficient information is lacking to prepare a proposed rule. The Service has met and been in contact with various knowledgeable Federal and State agency personnel and private individuals knowledgeable concerning the species' status. On March 8, 1990, and October 30, 1990, the Service notified appropriate Federal, State, and local governmental agencies in writing that a status review was being conducted and that the species might be proposed for Federal listing. Five written comments were received. The U.S. Army Corps of Engineers, State agencies in both North Carolina and South Carolina, and an interested biologist expressed their support of the species' being protected under the Endangered Species Act. No negative comments were received.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Carolina heelsplitter (*Lasmigona decorata*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Historic and recent collection records for the Carolina heelsplitter indicate that the species was once fairly widespread throughout portions of the Catawba River system in North Carolina, the Pee Dee River system in North and South Carolina, and the Saluda River system in South Carolina (Clarke 1985, Keferl and Shelly 1988, Keferl 1991). The species apparently no longer exists in the Saluda River system and, with the exception of a short stretch of Waxhaw Creek, has been eliminated from the Catawba River system (Keferl 1991). In the Pee Dee River system, only two small populations remain—the Goose Creek population and the Lynches River/Flat Creek population (Keferl 1991). This decline in the species throughout its range has been attributed to several factors, including siltation resulting from poorly implemented land use practices during agricultural, forestry, and construction activities; runoff and discharge of municipal, industrial, and agricultural pollutants; habitat alterations associated with impoundments, channelization, dredging, and sand mining operations; and other natural and human-related factors that adversely modify the aquatic environment. Many of these same factors threaten the three remaining populations of the species.

Both the Waxhaw Creek and Goose Creek populations are extremely small. Only one live individual of the species was found in Waxhaw Creek in 1987 and only two in 1990 (Keferl 1991). Three live specimens were found in Goose Creek in 1987, and only one was found in 1990 (Keferl 1991). Waxhaw Creek and Goose Creek are small streams containing only a limited amount of suitable habitat for the Carolina heelsplitter (E. Keferl, Brunswick College, personal communication, 1991). The Lynches River/Flat Creek population, though the healthiest of the three surviving populations, also appears to be relatively small and is restricted to a few scattered sites along a short reach of the Lynches River and a small section of Flat Creek (Keferl, personal communication, 1991). During the 1987–1990 surveys, a total of only 12 live specimens of the Carolina heelsplitter were found in the Lynches River, and only 2 live individuals were found in Flat Creek (both were found in 1990) (Keferl 1991). The low numbers of individuals and restricted range of the populations make each of the three remaining populations extremely vulnerable to extirpation from a single catastrophic event, such as a toxic chemical spill. Also, the existing and potential future land uses of the surrounding area threaten the habitat and water quality of all three populations with increased discharge or runoff of silt, sediments, and organic and chemical pollutants.

Of the four streams where the Carolina heelsplitter still occurs, only Flat Creek appears to be relatively undisturbed by human activities. Waxhaw Creek, Goose Creek, and the Lynches River flow through areas where they are subject to sedimentation and pollutants from agriculture and other farming activities (presently the primary land use within the watersheds of these streams). Also, all three streams drain areas that are currently receiving a rapid increase in development. In addition, poorly implemented logging activities, particularly along the Lynches River and Goose Creek, also appear to be having a detrimental effect on the streams. In some areas, trees and shrubs have been cleared right up to the streambanks, thereby increasing the siltation of the streams and adversely affecting shading of the streams and the stability of the streambanks.

Heavy nutrient and pollutant loads (i.e., fertilizers, organic wastes, pesticides, heavy metals, oil, salts, etc.) from wastewater treatment facility effluents, agricultural fields, urban and rural residential and industrial areas, highways, and other point and nonpoint sources also threaten the continued existence of the remaining populations. Though at present this appears to be more of a problem in the Lynches River than in the other streams, it will likely become more of a threat to the Goose Creek and Waxhaw Creek populations as development increases within their drainages.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

This freshwater mussel species is not commercially valuable, but, because it is extremely rare, it could be sought by collectors. Because of the species' restricted range, taking could be a threat to its continued existence. Federal listing would help control any indiscriminate taking of individuals.

C. Disease or Predation

Although the Carolina heelsplitter is presumably utilized for food by mammals, such as the muskrat, raccoon, and mink, predation is not thought to be a significant factor in the decline of the species.

D. The Inadequacy of Existing Regulatory Mechanisms

The States of North Carolina and South Carolina prohibit the taking of fishes and wildlife, including freshwater mussels, for scientific purposes without a State collecting permit. However, the species are not generally protected from other threats. Federal listing will provide additional protection under the Endangered Species Act by requiring Federal permits to take the species and by requiring Federal agencies to consult with the Service when actions they fund, authorize, or carry out are likely to adversely affect the species.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Only three populations of the species are known to still exist—one population each in Waxhaw Creek and Goose Creek and one population in the Lynches River that extends into Flat Creek. All three populations appear to be extremely small (particularly the Waxhaw Creek and Goose Creek populations, which appear to be comprised of only a few individuals), and all three populations are geographically isolated from one another. This isolation prohibits the natural interchange of genetic material between populations, and the small population size reduces the reservoir of genetic variability within populations. It is highly possible that these populations may already be below the generally acceptable level required to maintain long-term genetic viability (Soulé 1980).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Carolina heelsplitter (*Lasmigona decorata*) as an

endangered species. The species has been eliminated from the Saluda River system and its range has been greatly reduced in the other two river systems (the Catawba and Pee Dee) in which the species historically occurred. Presently only three small isolated populations are known to survive. These populations are threatened by a variety of factors, including road construction activities, residential and commercial development, logging and farming activities, water pollution, and other manmade and natural factors adversely affecting the aquatic environment. Due to the species' history of population losses and the extreme vulnerability of the three surviving populations, endangered appears to be the most appropriate classification for this species (see "Critical Habitat" section for a discussion of why critical habitat is not being proposed for the Carolina heelsplitter).

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose any habitat of a species that is considered to be critical at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the Carolina heelsplitter at this time, owing to the threat such a designation could present to the species. This species is so rare that it may be sought for scientific purposes and private collections. The publication of critical habitat maps and other publicity accompanying critical habitat designation could increase that threat. The locations of populations of this species have consequently been described only in general terms in this proposed rule. In addition, as part of the development of this proposed rule, Federal, State, and local governmental agencies were notified of this species' distribution. They were requested to provide data on proposed Federal actions that might adversely affect the species, and no specific projects were identified. Should any future projects be proposed in areas inhabited by this mussel, the involved agency/agencies would already have the distribution data needed to determine if the species could potentially be affected by their action. Also, any existing precise locality data needed would be available to appropriate Federal, State, and local governmental agencies through the Service office described in the "Addresses" section. Accordingly, it is the Service's determination that any additional benefit(s) that would accrue from critical habitat designation, that would not also accrue from the listing of the Carolina heelsplitter, would not at this time warrant the potential threat such designation could pose to the species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Service has notified Federal agencies that may have programs that affect the species. Federal activities that occur and impact the species include, but are not limited to, the carrying out or the issuance of permits for reservoir construction, stream alterations, wastewater facility development, hydroelectric facility construction and operation, and road and bridge construction. It has been the experience of the Service, however, that nearly all section 7 consultations have been resolved so that the species has been protected and the project objectives have been met.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes to enhance the propagation or survival of the species and/or for incidental take in connection with otherwise lawful activities.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received

within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, U.S. Fish and Wildlife Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is John A. Fridell, U.S. Fish and Wildlife Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806 (704/665–1195).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–265, 100 stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "CLAMS," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Claims:							
*	*	*	*	*	*	*	
Heelsplitter, Carolina	*Lasmigona decorata*	U.S.A. (NC, SC)		NA E		NA	NA
*	*	*	*	*	*	*	

Dated: May 11, 1992.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92–12204 Filed 5–22–92; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AB

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Cave Crayfish Cambarus aculabrum

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes the cave crayfish *Cambarus aculabrum* (no common name) to be an endangered species under the authority of the Endangered Species Act (Act) of 1973, as amended. This freshwater crayfish is currently known from two caves in Benton County, Arkansas. Groundwater pollution represents the major threat to the species. This proposal, if made final, would implement the protection of the Act for *Cambarus aculabrum*. The Service seeks relevant data and comments from the public.

DATES: Comments from all interested parties must be received by July 27, 1992. Public hearing requests must be received by July 10, 1992.

ADDRESSES: Comments and materials concerning this proposal should be sent to Complex Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, suite A, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Hartfield at the above address (telephone 601/965–4900 or FTS 490–4900).

SUPPLEMENTARY INFORMATION:

Background

Cambarus aculabrum was described from two cave streams in Benton County, Arkansas by H.H. Hobbs, Jr. and A.V. Brown (1987). It is a small, white, obligate cave-dwelling (troglobitic) crayfish with an overall body length reaching about 48 millimeters (1.8 inches). This species is distinguished from related surface species by a total lack of pigment, and by reduced eyes. It is distinguished from its closest troglobitic relatives by an acute or subacute apex of the anteromedian lobe of the epistome (mouthpart). First form males (those with fully formed and hardened first pleopods, or reproductive appendages) are further separated from the closely related troglobitic species, *Cambarus setosus* and *C. tartarus*, by the absence of a transverse groove separating the proximolateral lobe from the shaft on the first pleopod. It differs from first form males of another closely related cave species, *C. zophonastes*, by a longer central projection of the first pleopod which also has a shallow subapical notch (Hobbs and Brown 1987). Recent studies indicate that *Cambarus aculabrum* is genetically distinct from the other cave crayfish species (Koppelman 1990).

The type locality, Logan Cave, is an Ozarkian solution channel located in the Mississippian cherty-limestone Boone Formation of the Springfield Plateau (Hobbs and Brown 1987). A stream flows through the entire length of the cave, approximately 2000 meters (m) [6000 feet(ft)]. Logan Cave also contains a lake approximately 20 m (600 ft) long, 2–6 (6–18 ft) wide, and 2–3 m (6–9 ft) deep that was formed by the collapse of the cave roof. Water exits the cave approximately 300 m (900 ft) from the lake. *Cambarus aculabrum* is usually observed along the walls of the pool, or along the stream edges. Population numbers appear to be very small in Logan Cave. As many as six crayfish have been seen during one survey, but often none are evident (Hobbs and Brown 1987). In 14 visits to the cave, Brown observed crayfish on only three occasions (Brown *in litt.*, 1987). During a 1990 search of the cave lake and stream by Service biologists, only three *Cambarus aculabrum* were seen, one of which was dead. The U.S. Fish and Wildlife Service purchased 123.9 acres of Logan Cave, including the property that includes the cave's entrances, in 1989. The cave's recharge area covers 30.15 square kilometers (11.64 square miles), most of which is privately owned (Aley and Aley 1987).

Cambarus aculabrum is also known from Bear Hollow Cave, located approximately 38 kilometers (23 miles) from Logan Cave. Bear Hollow Cave is also a solution tunnel in the Boone Formation and contains a small stream approximately 200 m (600 ft) long and 0.2 m (8 inches) deep (Hobbs and Brown 1987). Although there is less available habitat in Bear Hollow Cave than in Logan Cave, as many as nine crayfish have been seen during a single visit (Hobbs and Brown 1987). As in Logan Cave, however, numbers of crayfish observed may vary dramatically between visits. In the Service's 1990 survey, only a single crayfish was found in the Bear Hollow Cave stream. The extent of the Bear Hollow Cave recharge area is unknown. The cave's entrance and surrounding property are privately owned.

In general, very little is known about the ecology and natural history of cave crayfish, and only limited observations have been made of this species. First form males have been collected during the months of January, February, October and December. Female *C. aculabrum* carrying eggs and young have not been observed.

On July 15, 1988, the Service was petitioned by Dr. Arthur Brown, the University of Arkansas, to list *Cambarus aculabrum* as an endangered species. A finding of insufficient information to indicate the petitioned action was warranted was published by the Service in the **Federal Register** (53 FR 52745) on December 28, 1988. Recent cave crayfish surveys (Smith 1984, Figg and Lester 1990) and an electrophoretic investigation (Koppelman 1990) have supported the species' restricted distribution.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the cave crayfish *Cambarus aculabrum* are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Water quality degradation represents the major threat to *Cambarus aculabrum*. Crayfish must have dissolved oxygen in the water for respiration. Severe water contamination by sewage, animal waste, gasoline, or a number of other materials, results in seriously depleted oxygen concentrations and suffocation of cave crayfish. Contamination by toxic compounds, including heavy metals, many organic chemicals, and pesticides can destroy aquatic cave fauna, including crayfish. Sedimentation damages or destroys breeding habitat, and invertebrates upon which crayfish feed.

The discrete recharge area of Logan Cave has been delineated (Aley and Aley 1987), and the principal point sources of water contamination within the recharge area have been identified as poultry and hog operations. Using 1980 aerial photos, Aley and Aley identified 85 hog or poultry confinement areas adjacent to, or within the cave groundwater recharge area. Sixty-three of these pollution sources were in high to extremely high hazard areas (lands known or presumed to lie within the cave groundwater recharge area, or lands that contribute water exclusively to the cave spring). Since their study, one additional poultry operation has been constructed within a few hundred meters of the cave's sinkhole entrance, and a hog confinement area has become operational within one kilometer of the cave. The prinicpal non-point source of water contamination identified by the Aley and Aley study (1987) was the use of liquid animal waste from the livestock operations to fertilize pasture lands in the Logan Cave recharge area. Runoff from improper applications of liquid waste, or heavy precipitation following applications, can rapidly enter the groundwater and result in oxygen depletion.

The Aley and Aley study (1987) also identified residential development as a potential source of water contamination in the Logan Cave aquifer. Although the Logan Cave recharge area is lightly populated at the present, 8 of 11 springs sampled indicated contamination by sewage. In view of the rapid population growth of Benton County, Arkansas, future residential land development represents a potential threat to Logan Cave water quality.

A well has been recently drilled in the immediate recharge area of Logan Cave for agricultural purposes. Water withdrawal through this well could effect flows in the cave during late summer low flow conditions. Exploitation of this portion of the aquifer for future agricultural expansion, commercial or residential development would significantly affect the cave stream flows and the cave crayfish.

The Arkansas Highway and Transportation Department's preferred route for relocation of U.S. State Highway 412 is through the Logan Cave recharge area. This would pose a threat to the Logan Cave population from construction activities, siltation, toxic spills, and highway runoff. An alternate route that would avoid the cave's recharge area has also been proposed.

Residential development is the primary threat to the Bear Hollow Cave crayfish population. Residential development may cause water quality degradation in caves due to leakage from sewage disposal systems and solid waste landfills, sedimentation, increased storm runoff, lawn fertilizers, herbicides, and pesticides. Residential growth also attracts secondary developments such as roads and gasoline stations which contribute to water quality degradation (Aley and Aley 1987).

Bear Hollow Cave lies on the northern edge of Bella Vista Village, a large retirement development. The cave entrance is a large sinkhole at the base of a ridge, and surface runoff in the vicinity of the cave drains into the sinkhole. The hills above the cave entrance have been subdivided for residential use, but many of the lots including those adjacent to the cave have not yet been developed. Currently, the population of Bella Vista Village is approximately 9000. Sewage disposal is by septic tanks. Although current impact to the cave aquifer is not known, the potential impact is significant. Over 36,000 lots have been sold in the community, including all of the lots in the subdivisions adjacent to, or in the vicinity of, bear Hollow Cave, and the population is expected to increase by 1000/year into the foreseeable future (Jim Medin, General Manager, Property Owners Association, Bella Vista Village, Arkansas, pers. comm., 1990).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes.

The species is currently not of commercial value; however, albinistic cave species are often viewed as items of curiosity and intrigue. Bear Hollow Cave is heavily used by humans, as evidenced by a well-marked trail, extensive graffiti on the cave walls, and a large amount of litter inside the cave. The crayfish population of Bear Hollow Cave is subject to take from human curiosity and for aquarium pets. The entrances to Logan Cave have been purchased by the Service, and access is restricted.

C. Disease or Predation

Diseases are not known for cave crayfish. Predation of crayfish by the Ozark cavefish has been documented by Poulson (1961). The Ozark cavefish occurs in Logan Cave, but is not known from Bear Hollow Cave. Predation by naturally occurring predators is a normal aspect of the population dynamics of a species, and is not considered a threat to an otherwise healthy population of *Cambarus aculabrum.*

D. The Inadequacy of Existing Regulatory Mechanisms

Arkansas requires a scientific collecting permit for collecting any species, except taking for fish bait under other State regulations. Troglobitic species are further protected from possession and sale by Arkansas State law. This affords very limited protection owing to the difficulty of apprehending violators and limited resources for law enforcement. The species is not recognized or protected by any other existing Federal or State regulation.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The limited distribution of *Cambarus aculabrum,* with only two known populations, leaves the species vulnerable to localized environmental degradation. Population numbers in both caves are likely to be very small. The maximum number of crayfish observed from either cave at a single sighting has been 14. Small troglobitic crayfish population size appears to result from food limitation in cave habitats (Culver 1982). Other adaptations that have been noted in cave crayfish and other troglobitic species include lower metabolic rates, increased longevity, delayed maturity and reproduction, and decreased fecundity. One cave crayfish's life span has been estimated from 37 to 176 years, and sexual maturity was reached in 35 years on average (Culver 1982). The life span and other population parameters of *Cambarus aculabrum* are unknown, but it is likely they follow those known for other cave species. These characteristics would make the populations of *Cambarus aculabrum* more vulnerable to environmental pollution, bioaccumulation of toxins, and take, and limit the species ability to recovery from, or adapt to, environmental impacts.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the cave crayfish *Cambarus aculabrum* as endangered. Endangered status was chosen because of the species' limited distribution and the vulnerability and isolation of the only two known populations. Critical habitat is not proposed for reasons listed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. Section 7 of the Act requires Federal agencies to consult with the Service if any action they authorize, fund or conduct is likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of critical habitat, if designated. The Service's regulations (50 CFR 424.(a)(a)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species; or, (2) such designation of critical habitat would not be beneficial to the species. The Service finds that designation of critical habitat is not presently prudent for this species for the reasons discussed below.

As discussed under Factor B, *Cambarus aculabrum* is an albinistic troglobite that is threatened by taking by novelty collectors or for aquarium pets. Such taking is difficult to enforce. Publication of critical habitat descriptions and maps in the Federal Register and local newspapers would make *Cambarus aculabrum* even more vulnerable and increase enforcement problems.

This species occupies a very limited range—2 caves. Water quality degradation represents the major threat to this species. Any contamination of the groundwater in proximity to the discharge areas can result in oxygen depletion in the cave water and would be likely to jeopardize the continued existence of the species. Therefore, the Service believes that habitat protection for this species will be best accomplished through the section 7 jeopardy standard and the section 9 prohibition against take. Thus, no appreciable benefits would accrue from critical habitat designation that would not also accrue from the listing of the species. All involved parties and principal landowners have been notified of the location and importance of

protecting this species' habitat. Protection will be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not now be prudent to designate critical habitat for *Cambarus aculabrum*.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify any designated critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement is expected to include the Environmental Protection Agency through the Clean Water Act's provisions for pesticide registration and waste management actions. The Corps of Engineers will include this species in project planning and operation and during the permit review process. The Federal Highway Administration will consider impacts of bridge and road construction when known habitat may be impacted. Continuing urban development within the drainage basins may involve the Farmers Home Administration and their loan programs. The Soil Conservation Service will consider the species under their farmer's assistance programs.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. Since this species is not in trade, no permits are expected.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be in writing and addressed to the Complex Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

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Smith, K.L. 1984. The status of *Cambarus zophonastes* Hobbs and Bedinger, an endemic cave crayfish from Arkansas. Arkansas Natural Heritage Commission, Little Rock, Arkansas. 15 pp.

Author

The primary author of this proposed rule is Paul D. Hartfield (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 7 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.11(h) for animals by adding the following, in alphabetical order under Crustaceans, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		
Crustaceans							
*	*	*	*	*	*		
Crayfish (no common name).	*Cambarus aculabrum*	U.S.A (AR)	NA	E	NA	NA	
*	*	*	*	*	*		

Dated: May 11, 1992.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92–12205 Filed 5–22–92; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN–1018–AB73

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status for Five Limestone Plants in the San Bernardino Mountains of California, Five Plants of Sandy and Sedimentary Soils from Santa Cruz and Monterey Counties, and the Giant Garter Snake, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rules; notice of reopening of public comment periods.

SUMMARY: The U.S. Fish and Wildlife Service (Service), under the Endangered Species Act of 1973, as amended (Act), gives notice that the public comment periods will be reopened on the proposed endangered status for 10 plants and the giant garter snake. The comment periods for these three proposed rules are now reopened until July 15, 1992.

Five of the plant taxa are found on sandy and sedimentary soils along the central coast of California, in Santa Cruz and Monterey Counties. They are: *Chorizanthe pungens* var. *hartwegiana* (Ben Lomond spineflower), *Chorizanthe pungens* var. *pungens* (Monterey spineflower), *Chorizanthe robusta* var. *hartwegii (Scotts Valley spineflower), Chorizanthe robusta* var. *robusta* (robust spineflower), and *Erysimum teretifolium* (Santa Cruz wallflower). The other five plant taxa occur on the north slope of the San Bernardino Mountains, San Bernardino County, California. They are: *Erigeron parishii* (Parish's daisy), *Eriogonum ovalifolium* var. *vineum* (Cushenbury buckwheat), *Astragalus albens* (Cushenbury milkvetch), *Lesquerella kingii* ssp. *bernardina* (San Bernardino Mountains bladderpod), and *Oxytheca parishii* var. *goodmaniana* (Cushenbury oxytheca). The giant garter snake (*Thamnophis gigas*) occurs in the San Joaquin and Sacramento Valleys of California.

The reopening of the public comment periods will allow all interested parties to submit additional information on the proposals. The proposed rules were published October 24, 1991 (56 FR 55107) (Monterey and Santa Cruz County plants), November 19, 1991 (56 FR 58332) (San Bernardino County plants), and December 27, 1991 (56 FR 67046) (giant garter snake).

DATES: The comment periods on the three proposed rules are reopened and comments will be accepted through July 15, 1992.

ADDRESSES: Written comments and materials concerning the giant garter snake should be sent to U.S. Fish and Wildlife Service, 2800 Cottage Way, room E–1803, Sacramento, California 95825–1846. Comments and materials concerning the 10 plant taxa should be sent to the U.S. Fish and Wildlife Service, 2140 Eastman Avenue, suite 100, Ventura, California 93003. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above addresses.

FOR FURTHER INFORMATION CONTACT: Dr. Steven M. Chambers, Office Supervisor, Ventura Field Office (See **ADDRESSES** section) at 805/644–1766 (10 plant taxa); or Peter Sorensen, Sacramento Field Office (see **ADDRESSES** section) at 916/978–4866 (giant garter snake).

SUPPLEMENTARY INFORMATION:

Background

The five taxa from Santa Cruz and Monterey Counties are found on sandy and sedimentary soils along the central coast of California, and are threatened by habitat destruction due to residential development, sand mining, military activities, and encroachment by alien plant species. A proposed rule to list these five plants as endangered was published in the **Federal Register** on October 24, 1991 (56 FR 55107).

The five plants from San Bernardino County occur on the north slope of the San Bernardino Mountains. They occur primarily on calcium carbonate deposits (limestone and dolomite) within pinyon-juniper woodland and white fir forest communities. They are threatened with habitat alteration due to mining activities (limestone, gold, sand and gravel), off-road and other recreational use, and urban development. On November 19, 1991 (56 FR 58332) the Service published a proposed rule in the **Federal Register** to list these five plants as endangered.

The giant garter snake is restricted to valley floor wetlands, including low gradient streams, ponds, irrigation and

drainage canals, and certain rice field habitats in the San Joaquin and Sacramento Valleys of California. Eleven apparently isolated subpopulations are distributed locally from Burrell, Fresno County northward to the vicinity of Chico, Butte County. The giant garter snake is threatened by a variety of factors, including urbanization, flood control and water diversion projects, and agricultural practices. A proposal to list the giant garter snake was published in the Federal Register on December 27, 1991 at 56 FR 67046.

The comment period is now reopened until July 15, 1992. Written comments should be submitted to the Service at the offices given above in the **ADDRESSES** section.

Author

The authors of this notice are Constance Rutherford, Ventura Field Office, Peter C. Sorensen, Sacramento Field Office (see **ADDRESSES** section), and Leslie J. Propp, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 N.E. 11th Avenue, Portland, Oregon 97232 (telephone 503/231–6131).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: May 14, 1992.

Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 92–12203 Filed 5–22–92; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 57, No. 101
Tuesday, May 26, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Santa Cruz Vegetation Management Project

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: Notice is hereby given that the USDA Forest Service will prepare an Environmental Impact Statement disclosing the environmental consequences of the proposed project to manage chaparral vegetation on the Santa Barbara Ranger District, Los Padres National Forest, Santa Barbara County, California. This project encompasses about 15,000 acres within the Santa Ynez watershed and is located 10 air miles northeast of Lake Cachuma and just south of the San Rafael Wilderness. The objective of the project is to reduce the amount of flammable vegetation and thereby lower the risk and damage caused by wildfire, lessen the amount of sediment flowing into Lake Cachuma, and increase wildlife habitat and biodiversity within the area. The decision to be made in this analysis is to identify the management scenario that best accomplishes the objectives stated above, while reasonably minimizing any potential impacts, costs, and risks. The use of prescribed fire will be among the management tools to be considered.

The Agency invites comments and suggestions on the scope of the analysis. The Agency is also giving notice of the environmental analysis and decision process so that interested and affected people know how they may participate and contribute to the final decision. The Draft Environmental Impact Statement (DEIS) will be published in or before February, 1993 and the Final Environmental Impact Statement (FEIS) will be available for review in or before June, 1993.

DATES: Comments concerning the scope of this analysis should be received in writing by July 8, 1992.

ADDRESSES: Send written comments to Patrick Pontes, District Ranger, USDA Forest Service, Santa Barbara Ranger District, Star Route Paradise Road, Santa Barbara, California 93105.

FOR FURTHER INFORMATION CONTACT: Jim Shackelford or John Bridgwater at the same address as above or phone (805) 967–3481.

SUPPLEMENTARY INFORMATION: On November 8, 1989, The Los Padres National Forest initiated public scoping on the vegetation management project within the Santa Cruz area. The Forest Service sent over 600 letters to publics within the Santa Barbara area that had previously indicated interest in National Forest issues or owned property within and adjacent to the project area. The Forest received 33 responses. The major public issues focused on the effects of vegetation management to native plant communities, reptile and amphibian populations, as well as impacts caused by road construction and smoke. Based on the public controversy, the Forest Service decided to defer the project analysis until funding and personnel were available to conduct an analysis that could lead to the development of an Environmental Impact Statement.

The Forest Service is now reopening the analysis and is soliciting information, concerns and comments as part of scoping to ensure that all interested and affected agencies, organizations, and individuals who may be interested in or affected by the proposed action may participate. This input will be used to prepare the DEIS. Comments received during the original scoping have been retained and will be considered during this analysis.

Those who are interested in this project and decision are encouraged to participate in the process early to ensure that their issues and concerns are known. This is to ensure that substantive comments are made available to the Forest Service at a time when the comments can be meaningfully considered, and incorporated into the analysis process.

The scoping process includes:

1. Identify all potential issues.
2. Identify issues that need to be analyzed in depth.
3. Eliminate any issues that are insignificant or previously covered by other relevant environmental analyses.
4. Explore alternatives to achieve the objectives identified above.
5. Identify potential environmental effects of the proposed action and alternatives.

The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the project area.

The responsible official for this project analysis is the Forest Supervisor of Los Padres National Forest. The analysis is expected to take approximately 8 months. The estimated completion date for the DEIS is February, 1993. The comment period on the DEIS will be 60 days from the date that the Environmental Protection Agency's notice of availability of the DEIS appears in the **Federal Register**.

After the comment period for the DEIS ends, the comments received will be analyzed and considered by the Forest Service to be incorporated into the Final Environmental Impact Statement (FEIS). The FEIS will be completed in or before April, 1993. The responsible official will consider comments, responses, and environmental consequences discussed in the FEIS as well as applicable laws, regulations and policies in making a decision regarding this proposal. The Record of Decision will be published in the **Federal Register**. A legal notice announcing the decision will be published in the Santa Barbara News Press, the newspaper of record for Santa Barbara County. The public will have 45 days from the date that the notice is published to file an appeal of the decision subject to 36 CFR Part 217.

Dated: May 15, 1992.

Mark J. Madrid,

Deputy Forest Supervisor.

[FR Doc. 92–12113 Filed 5–22–92; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Processing Technical Advisory Committee; Closed Meeting

A meeting of the Materials Processing Technical Advisory Committee will be held June 23, 1992, 9 a.m., in the Herbert C. Hoover Building, room 1617M(2), 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advised the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to materials processing and related technology. The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 377–2583.

Dated: May 19, 1992.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 92–12156 Filed 5–22–92; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A–570–101]

Greige Polyester Cotton Printcloth From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the American Textile Manufacturers Institute, Inc., (ATMI), the petitioner, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on greige polyester/cotton printcloth from the People's Republic of China (PRC). The review covers one manufacturer/exporter of this merchandise to the United States and the period September 1, 1988, through August 31, 1989.

As a result of the review, the Department has preliminarily determined that there were no shipments during the period.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Zev Primor or Melissa G. Skinner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–4851.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 1989, the Department published a notice of "Opportunity to Request an Administrative Review" (54 FR 37496) of the antidumping duty order on greige polyester/cotton printcloth from the PRC (48 FR 41614, September 16, 1983). In accordance with 19 CFR 353.22(a)(1), the petitioner requested an administrative review of China National Textiles Import and Export Corporation (Chinatex). On April 12, 1990, Chinatex reported that there had been no shipments of the subject merchandise during the period of review. The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by this review are shipments of greige polyester/cotton printcloth, other than 80 x 80 type. Greige polyester/cotton printcloth is unbleached and uncolored printcloth. The term "printcloth" refers to plain woven fabric, not napped, not fancy or figured, of single yarn, not combed, of average yarn number 26 to 40, weighing not more than 6 ounces per square yard, of a total count of more than 85 yarns per square inch, of which the total count of the warp yarns per inch and the total count of the filling yarns per inch are each less than 62 percent of the total count of the warp and filling yarns per square inch. This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item 5210.11.60. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter of greige polyester/cotton printcloth from the PRC, Chinatex, and the period September 1, 1988 through August 31, 1989.

Preliminary Results of the Review

Chinatex made no shipments to the United States during the review period. Consequently, we have preliminarily determined that the following margin exists for the period September 1, 1988 through August 31, 1989:

Manufacturer/Exporter:	*Margin/percent*
Chinatex	*22.4

*No shipments during the period; margin is from the last period in which there were shipments.

Parties to the proceeding may request a disclosure within 5 days of the date of publication of this notice. Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as is convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Case briefs from interested parties may be submitted not later than 14 days before the date of the hearing or the first day thereafter. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 7 days after the submission of the case briefs. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any written comments or at a hearing.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate established for the reviewed company will be that rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will

continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of this administrative review. This rate represents the highest rate for any firm with shipments in this administrative review, other than those firms receiving a rate based entirely on best information available (BIA). Since the only firm in this review had no shipments, the "all other" rate will be the highest non-BIA rate in the most recent review in which such a rate was established. The "all other" rate is 22.4 percent.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: May 15, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-12214 Filed 5-22-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-820]

Final Determination of Sales at Less Than Fair Value: New Minivans From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 26, 1992.

FOR FURTHER INFORMATION CONTACT: James Maeder, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4929.

FINAL DETERMINATION:

Background

Since the publication of our affirmative preliminary determination on January 2, 1992 (57 FR 43), the following events have occurred.

On January 6, 1992, the petitioners (Ford Motor Company, General Motors Corporation, and Chrysler Corporation) requested a public heraring. On January 8 and 9, 1992, the respondents, Toyota Motor Corporation (TMC) and Toyota Motor Sales, U.S.A., Inc. (TMS) (collectively Toyota) and Mazda Motor Corporation (MC) and Mazda Motor of America, Inc. (MMA) (collectively Mazda), respectively, also requested a public hearing.

On January 13, 1992, Toyota provided us with information requested on December 13, 1991, concerning its relationship with its suppliers as well as cost data for both Toyota and certain related suppliers.

On January 23, 1992, we issued a deficiency questionnaire covering Toyota's January 13, 1992, submission. Toyota provided a partial response to our deficiency questionnaire on February 6, 1992, and the remainder of its response on February 18, 1992.

On January 27 and 28, 1992, we requested that both Mazda and Toyota, respectively, provide us with bills of materials and blueprints for certain components used in the production of minivans. On February 18, 1992, we received the responses to these requests.

On February 3, 1992, we requested that Toyota provide us with revised computer tapes to correct clerical problems found as a result of Toyota's preparation for verification. On February 18, 1992, we received the revised tapes. Toyota provided additional corrections on February 24, 1992.

On February 10, 1992, Mazda submitted revised cost of production (COP) information. On February 14, 1992, Mazda also submitted revised U.S. sales tapes. The firm provided additonal corrections on February 24, 1992.

On February 13, 1992, we requested that Toyota provide us with price data on parts purchased from certain unrelated suppliers. On February 14, 1992, we also asked Mazda to provide certain financial information pertaining to its unrelated suppliers. We received the requested data from both companies on February 26, 1992.

From March 2, through March 27, 1992, the Department of Commerce (the Department) conducted verifications in Japan, California, and Maryland of the questionnaire responses submitted by Mazda and Toyota.

At our request, Toyota provided corrections to its sales response on March 17, 1992, and to its unrelated supplier response on March 18, 1992. On April 8, 1992, at our request, both respondents submitted revised computer tapes that incorporated revisions to the data submitted on February 24, 1992, as well as corrections presented at verification.

On April 15, 1992, petitioners, respondents, and an interested party, Mitsubishi Motors Corporation (Mitsubishi), filed case briefs regarding sales issues. On April 17, 1992, petitioners and respondents filed case briefs concerning cost issues and Toyota submitted revised cost tapes. On April 21, 1992, we returned these tapes to Toyota because they were not solicited by the Department. On April 22, 1992, petitioners and respondents filed rebuttal briefs regarding both sales and cost issues. On April 24, 1992, we held a public hearing.

Scope of Investigation

The products covered by this investigation are new minivans from Japan. In the preliminary determination, we clarified the scope of the investigation based, in part, on comments received from all of the parties. We have reexamined the scope issue and find no compelling reason to amend the scope from that set forth in the preliminary determination (see Comment 1).

Definition: For purposes of this investigation, a new minivan is defined as an on-highway motor vehicle which generally has the following characteristics:

(1) A cargo capacity behind the front row of sets that is 100 cubic feet or greater and less than 200 cubic feet;

(2) A body structure, width, and seat configuration capable of providing full walk-through mobility from the front seat row to the third seat row, or at least partial walk-through mobility from either, (a) the front seat row to the second seat row, or (b) the second seat row to the third seat row;

(3) A hood that is sloping and a short distance from the cowl to the front bumper relative to the overall length of the vehicle;

(4) A gross vehicle weight that is less than 6,000 pounds;

(5) A height that is between 62 and 75 inches;

(6) A single, box-like structure that envelopes both the space for the driver and front-seat passenger and the rear

space (which has flat or nearly flat floors and is usable for carrying passengers and cargo); and,

(7) A rear side passenger access door (or doors) and a rear door (or doors) that provide wide and level access to the rear area.

A vehicle does not necessarily have to meet all seven criteria to be considered a minivan. We will compare the physical characteristics of vehicles with the above criteria and determine on a case-by-case basis whether a vehicle shares enough physical characteristics with minivans, as described by the above seven criteria, to be considered a minivan. While we consider all seven of the above criteria important in determining whether a vehicle is a minivan, we consider the criteria which reflect a measurement of interior space (cargo capacity, walk-through capability, and cowl length) to be of primary importance.

Exclusion: Regarding the Mitsubishi Expo and Expo LRV, named by petitioners as vehicles within the scope of this investigation, we affirm our preliminary determination that these vehicles, as currently imported, cannot be considered minivans, when analyzed by reference to the seven scope criteria. Thus, these vehicles will not be the subject of any antidumping duty order that is issued as a result of this investigation.

Classification: Minivans are currently classifiable under either subheading 8703 or 8704 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is October 1, 1990, through May 31, 1991, for Mazda and December 1, 1990, through May 31, 1991, for Toyota. Mazda continues to claim that the POI established for it is inappropriate (see Comment 26).

Such or Similar Comparisons

For purposes of the final determination, we have determined that minivans comprise a single category of "such or similar" merchandise.

Fair Value Comparisons

To determine whether sales of new minivans from Japan to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice. Because we found that more than 90 percent of home market sales of new minivans for both respondents were made at prices below the COP, we compared U.S. sales of new minivans to FMV based on constructed value (CV).

United States Price

Mazda

Mazda made sales in the United States to unrelated dealers and to an unrelated distributor. For sales to dealers, we based USP on exporters sales price (ESP) in accordance with section 772(c) of the Tariff Act of 1930, as amended, (the Act), because (1) these sales were made after importation into the United States, (2) the subject merchandise was introduced into the inventory of Mazda's related U.S. selling agent, and (3) Mazda's related U.S. sales agent acted as more than a processor of sales-related documentation and communication link with related U.S. customers.

For sales to Mazda's distributor, we also based USP on ESP, although the sales were made prior to importation, because the minivans sold to the distributor were handled by Mazda's related U.S. sales agent who acted as more than a processor of sales-related documentation and a communication link with the unrelated U.S. custormer.

We excluded from our analysis (1) sales made to unrelated dealers in Puerto Rico, (2) sales made to related dealers in the United States, and (3) sales of vehicles imported as new vehicles but used in Mazda's demo/lease program prior to sale to the first unrelated customer, because these sales accounted for a negligible quantity of Mazda's sales.

We calculated ESP based on delivered prices to unrelated customers in the United States. Based on our findings at verification, we made adjustments, where appropriate, to correct clerical errors in Mazda's data. We made additions to USP, where appropriate, for interest revenue received by Mazda on the sale of minivans, revenue received for port processing and transportation, and credit for a reduction in U.S. duties paid on U.S. components incorporated into the imported vehicle. We made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. duty, U.S. inland freight, U.S. brokerage and handling, and harbor maintenance fees, in accordance with section 772(d)(2) of the Act. We also made deductions, where appropriate, for post-sale incentives. At verification we found that Mazda had recently implemented a regional incentive program which potentially affected certain POI sales of MPVs (its minivan model). Because Mazda did not estimate an amount for this program in its revised computer tape submission, we used best information available (BIA) to calculate an amount for this program. As BIA, we applied the amount of the incentive found at verification to all MPVs sold to dealers within that region during the POI which had not been retailed as of the date of the U.S. verification.

In accordance with section 772(e)(2) of the Act, we made additional adjustments, where appropriate, for credit expenses, flooring expenses, the gain or loss associated with the resale of vehicles sold to major rental car companies (repurchase expenses), advertising expenses, warranty expenses, dealer holdback charges, Mazda Dealer Association (MDA) payments, payments for pre-delivery inspections, port charges, other expenses which include the purchase and placement of portfolios and floor mats into the imported vehicle, the payment of a wholesale tax on vehicles sold to Hawaiian dealers, product liability premium expenses, indirect selling expenses, and inventory carrying costs.

Mazda reported credit expenses for sales to the majority of its dealers based on an average U.S. price. We recalculated credit expenses for these sales based on the prices reported in Mazda's U.S. sales listing.

Mazda reported its repurchase expenses as direct advertising expenses and allocated them over all sales. We reclassified these expenses as sales-specific expenses and reduced advertising expenses accordingly. In addition, we imputed an inventory carrying cost or gain for vehicles in the repurchase program (see Comments 37 and 44). For those vehicles not repurchased at the time of the U.S. verification, we used BIA to calculate the repurchase and inventory carrying expenses. As BIA, we used the average expense calculated for those vehicles which had been repurchased and resold prior to verification.

Mazda reported per-unit warranty costs as POI warranty expenses divided by the number of sales since the introduction of the MPV in the home market. However, we recalculated Mazda's warranty expenses, to reflect only POI experience, by dividing the value of POI claims by the quantity of POI retail sales (see Comment 32).

We reclassified certain portions of indirect selling expenses as direct selling expenses. Specifically, we reclassified fees paid to an unrelated

firm for the administration of certain incentive programs as direct expenses. We also recalculated Mazda's contributions to its MDAs, and certain other regional advertising expenses, based on verification findings and reclassified the majority of these contributions as direct advertising. Finally, we reallocated the amount of the fee paid to Mazda's unrelated advertising agency to MPVs and reclassified a portion of this fee as a direct expense and another portion as a regional indirect expense (see Comments 39, 40, and 41). We also deducted the recalculated direct selling expenses from USP.

In accordance with section 772(e)(1) of the Act, we deducted arm's-length commissions paid to related parties from USP.

We also deducted all value added to the minivan after importation, pursuant to section 772(e)(3) of the Act. The value added consists of the costs of the materials, fabrication, and general expenses associated with the portion of the minivan further manufactured in the United States as well as a proportional amount of profit or loss attributable to the value added. Profit or loss was calculated by deducting from the sales price of the minivan all production and selling costs incurred by the company for the minivan. The total profit of loss was then allocated proportionately to all components of cost. Only the profit or loss attributable to the value added was deducted. In determining the costs incurred to produce the minivan, we included (1) materials, (2) fabrication, and (3) general expenses, including selling, general, and administrative expenses (SG&A), research and development expenses (R&D), and interest expenses.

We relied on Mazda's submitted U.S. further manufacturing cost information, except in the following instances where the costs were not appropriately quantified or valued (see Comments 20 and 53):

1. We adjusted Mazda (North America), Inc.'s (MANA's) net interest expense to reflect the borrowing experience of the consolidated group of Mazda companies.

2. We adjusted the materials and installation costs for the U.S. air conditioner kit to include MMA's net interest expense.

3. We adjusted Mazda's reported freight, freon, and installation expenses for U.S. air conditioning to reflect port-specific data that were more accurate.

Toyota

Toyota had sales in the United States to unrelated dealers and unrelated distributors, associates, and vendors. For all sales, we based USP on ESP in accordance with section 772(c) of the Act because Toyota's related U.S. sales agent acted as more than a processor of sales-related documentation and communication link with unrelated U.S. customers (see Comment 15). We excluded from our analysis sales made to unrelated distributors in Hawaii and Puerto Rico, as well as sales made to a related dealer, because these sales accounted for a negligible portion of Toyota's sales.

We calculated ESP based on delivered prices to unrelated customers in the United States. We made additions to USP for freight charges paid to Toyota by distributors and dealers as well as retail sale processing charges. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, foreign brokerage and handling, foreign loading, ocean freight, marine insurance, U.S. duty, U.S. inland freight, U.S. brokerage, U.S. wharfage and handling, harbor maintenance and merchandise processing fees, port of entry services, pre-delivery services, survey costs, and additional miscellaneous movement charges, in accordance with section 772(d)(2) of the Act. In addition, we made deductions, where appropriate, for discounts, rebates, and post-sale billing adjustments.

In accordance with section 772(e)(2) of the Act, we made additional deductions, where appropriate, for credit expenses, advertising expenses, warranty expenses, royalties, courtesy delivery reimbursements, bank charges, other direct selling expenses, indirect selling expenses, and inventory carrying costs.

We also reallocated third party payments incurred on sales made through one of Toyota's related distributors, Central Atlantic Toyota, Inc. (CAT), by treating a portion of this payment as an indirect selling expense and the remainder as a direct selling expense (see Comment 13).

We also deducted all value added to the minivan after importation, pursuant to section 772(e)(3) of the Act. The value added consists of the costs of the materials, fabrication, and general expenses associated with the portion of the minivan further manufactured in the United States as well as a proportional amount of profit or loss attributable to the value added. Profit or loss was calculated by deducting from the sales price of the minivan all production and selling costs incurred by the company for the minivan. The total profit or loss was then allocated proportionately to all components of cost. Only the profit or loss attributable to the value added was deducted. In determining the costs incurred to produce the minivan, we included (1) materials, (2) fabrication, and (3) general expenses, including SG&A, R&D, and interest expenses.

Foreign Market Value

In order to determine whether there were sufficient sales of new minivans in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of new minivans to the volume of third country sales of new minivans, in accordance with section 773(a)(1) of the Act. Although Mazda contended its home market did not provide an adequate basis on which to calculate FMV, we determined that both Mazda and Toyota had viable home markets with respect to sales of new minivans during the POI (see Comment 25).

Based on petitioners' allegations, we investigated whether Toyota or Mazda had home market sales that were made at less than their COP.

Mazda

In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of Mazda's cost of materials, labor, other fabrication costs, and general expenses. We compared individual home market prices with the COPs calculated as described above. We found that over 90 percent of Mazda's home market sales were made at prices below the COP. Therefore, we based FMV on CV.

We relied on the submitted COP and CV information, except in the following instances where the costs were not appropriately quantified or valued (see Comments 18–24):

1. For the COP of specific home market MPV parts purchased by Mazda from its related suppliers at below-cost prices, we revised the value reported by Mazda in its COP submission to reflect an estimate of the suppliers' actual production costs for the parts.

2. For the CV of one U.S. MPV part purchased by Mazda from a related supplier, we revised the value reported by Mazda in its CV submission to reflect the supplier's actual production cost for the part.

3. For COP and CV, we recalculated Mazda's aggregate production cost variance for materials, labor, and overhead so that it could be applied separately to each element of the U.S. and home market MPVs' production costs.

4. For COP and CV, we revised Mazda's general and administrative expense (G&A) to include certain other expenses related to the production of

MPVs that had previously been omitted by the company in its response.

5. For COP and CV, we revised Mazda's net interest expense calculation to reflect the interest income and expenses incurred by the consolidated group of Mazda companies.

In accordance with section 773(e)(1)(B)(i) of the Act, we used Mazda's reported general expenses, adjusted as detailed above, because they exceeded the statutory minimum of ten percent of the cost of manufacturing (COM). For profit on CV, we used the statutory minimum of eight of the total of COM and general expenses because Mazda's actual profit on home market sales was less than eight percent.

We made circumstance-of-sale (COS) adjustments to CV, where appropriate, for credit expenses, warranty expenses, advertising, and variable pre-delivery inspection expenses. We recalculated warranty expenses to reflect only POI experience, by dividing the value of POI claims by the quantity of POI retail sales. We recalculated home market advertising expenses as a percentage of home market price. We also reclassified a portion of the reported pre-delivery inspection expenses as indirect selling expenses. (See Comments 2, 32, and 45).

Furthermore, we deducted indirect selling expenses, including inventory carrying costs. We recalculated indirect selling expenses based on our findings at verification (see Comment 34). The deduction for home market indirect selling expenses was capped by the amount of indirect selling expenses incurred and commissions paid on U.S. sales, in accordance with 19 CFR 353.56(b)(2).

Toyota

In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of Toyota's cost of materials, labor, other fabrication costs, and general expenses. We compared individual home market prices with the COPs calculated as described above. We found that over 90 percent of Toyota's home market sales were made at prices below the COP. Therefore, we based FMV on CV.

We relied on the submitted COP CV information, except in the following instances where the costs were not appropriately quantified or valued:

1. We adjusted the cost of certain purchased parts to reflect Toyota Auto Body Co., Ltd.'s (TAB's) standard cost since the reported cost incurred by Toyota did not verify.

2. We adjusted the cost of TAB's purchased parts by revising the price variance applied to TAB's standard costs. This variance was separated into two components. The first component was related solely to TAB's payments to suppliers for minivan parts and was reallocated to only such parts. The second variance component related to general price differences and, therefore, was allocated to all TAB's purchased parts.

3. We adjusted TMC's raw materials cost by revising the materials variance to include only the components related to the raw materials used in minivans.

4. We adjusted the standard cost of the wiring harness used in the minivans to correct a reporting error made by Toyota and to reflect the actual cost of the part.

5. We added to all of TAB's material costs an additional amount representing scrap costs incurred by the company but excluded from its reported minivan costs.

6. For CV, we adjusted the cost of parts purchased from related suppliers for use in the U.S. vehicle (see Comment 5).

7. We adjusted TAB's conversion costs to reflect only the costs incurred during the POI and to account for period-end adjustments for the months of April and May.

8. We added G&A and general R&D to parts purchased by TAB from TMC to account for such expenses normally allocated to these parts by TMC in the ordinary course of its business.

9. We added the provision for warranty reserve, loss on disposal of fixed assets, and bonuses to directors and statutory auditors to TAB's administrative costs.

In accordance with section 773(e)(1)(B)(i) of the Act, in calculating CV, we used Toyota's reported general expenses, adjusted as detailed above, because they exceeded the statutory minimum of ten percent of the COM. For profit on CV, we used the statutory minimum of eight percent of the total of COM and general expenses because Toyota's actual profit on its home market sales was less than eight percent.

We made COS adjustments to CV, where appropriate, for credit expenses, advertising expenses, warranty expenses, and royalties. We also deducted indirect selling expenses, including inventory carry costs, financial assistance, and other indirect selling expenses. The deduction for home market indirect selling expenses was capped by the amount of indirect selling expenses incurred on U.S.sales, in accordance with 19 CFR 353.56(b)(2).

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we verified information provided by respondents by using standard verification procedures, including on-site inspection of the manufacturers' facilities, the examiniation of relevant sales and financial records, and selection of original source documentation containing relevant information.

INTERESTED PARTY COMMENTS

Common Issues

Comment 1

Toyota argues that the scope of investigation, as modified by the Department at the preliminary determination, is ambiguous and impermissibly broad. Specifically, Toyota contends that the inclusion of the term "generally" in the introductory sentence of the definition of "minivan" is redundant with the second paragraph of the scope definition. According to Toyota, this creates uncertainty in the application of the scope criteria. Thus, Toyota requests that the Department delete the term "generally."

Toyota further contends that by permitting vehicles with only partial walk-through mobility between the second and third rows to be considered a minivan, the Department's definition unlawfully expands the scope of the investigation beyond that intended by the petition. Toyota recognizes that recent decisions, including *Mitsubishi Electrical Corporation* v. *United States*, 12 CIT 1025, 1046–7, 700 F. Supp. 538, 555 (1988), *aff'd*, 898 F.2d 1577 (Fed. Cir. 1990), affirm the Department's authority to exercise broad discretion in defining the scope of an investigation. However, Toyota points out that in *American Lamb Co.* v. *United States*, 785 F.2d 994, 1001 (Fed. Cir. 1986), the Court ruled that the Department must exercise this discretion reasonably and any consequent determination must be supported by substantial evidence in the administrative record. In this case, Toyota claims that the Department did not exercise its discretion reasonably here and its determination is unsupported by substantial evidence.

Toyota also states that, according to the decision in *The Torrington Co.* v. *United States*, Slip Op. 92–21 (Ct. Int'l Trade 1992), the Department should examine additional evidence regarding scope only if the petition is ambiguous. Toyota argues that, with respect to the walk-through capability, the petition

was quite clear and, therefore, needed no modification. Thus, according to Toyota, the walk-through criterion should encompass only the ability to provide access between the front and rear sections of a vehicle.

Petitioners argue that the Department should not modify the scope as set forth in the preliminary determination. Petitioners assert that Toyota's recommended changes would invite Japanese minivan exporters to reconfigure minivans to circumvent a minivan antidumping order, if issued. Moreover, petitioners maintain that, on July 10, 1991, they amended the petition to modify the minivan definition to include within its scope minivans that do not have any walk-through capability, and that the definition of walk-through capability included in the Department's preliminary determination effectively responds to their interest in discouraging circumvention of an antidumping order on new minivans.

DOC Position

We agree with petitioners. Toyota's arguments that we should delete the term "generally" and rescind our earlier modification of the description of the walk-through feature are without merit. Indeed, we clarified the scope at the preliminary determination to provide necessary guidance as to what constitutes a minivan for purposes of this proceeding. In doing so, we considered Toyota's comments, along with those of other interested parties and automotive experts from government and industry. While the use of the term "generally" may be redundant with the second paragraph of the definition of minivan, this term does not render the scope either ambiguous or impermissibly broad, and, in fact, is *a fortiori* consistent.

With respect to the walk-through feature, our investigation indicates that minivans permit, or are capable of being configured to permit, full or partial walk-through. Accordingly, we believe that walk-through capability is a primary characteristic of a minivan.

Finally, we disagree with Toyota that the Department unlawfully expanded the scope of this investigation by clarifying the walk-through feature characteristic to minivans. The Department's clarification is reasonable and consistent with well-settled law that the Department possesses the authority to define or clarify the scope of an investigation. See *Mitsubishi Electrical Corporation* v. *United States*, 12 CIT 1025, 1046–7, 700 F. Supp. 538, 555 (1988), *aff'd*, 898 F.2d 1577 (Fed. Cir. 1990); *The Torington Co.* v. *United States*, 745 F. Supp. 718, 723 (CIT 1990), *aff'd*, 938 F.2d 1276 (Fed. Cir. 1991).

Comment 2

Petitioners argue that respondents' direct advertising expenses should be allocated to minivans by volume, rather than by value. Petitioners note that the type of advertising used by both respondents does not distinguish between model type (*e.g.*, two vs. four-wheel drive vehicles). Petitioners also note that Mazda allocated home market advertising by volume and U.S. advertising by value.

Mazda notes that it allocated U.S. advertising by value at the express request of the Department.

DOC Position

It is the Department's general practice to require respondents to allocate advertising by value, rather than volume. Consistent with this practice, we have accepted both Toyota's and Mazda's value-based allocations. To be consistent, we have reallocated Mazda's home market advertising by value.

Comment 3

Petitioners, Toyota, and Mazda raised certain issues regarding model comparisons, the 20 percent "difference in merchandise (difmer) cap rule," the Japanese consumption tax, various difmer adjustments, and level-of-trade comparisions for certain types of Mazda sales.

DOC Position

Because we have determined that CV is the appropriate basis for FMV for both respondents, the above-referenced issues are moot.

Toyota Cost Issues

Comment 4

Petitioners argue that the TMC cost verification report enumerated several deficiencies in TMC's cost response that cannot possibly be corrected at this stage of the investigation. Because of these deficiencies, petitioners contend that the Department should reject the response.

Petitioners maintain that the situation in this investigation is similar to the situation in the Final Determination of Sales at Less Than Fair Value: Certain Internal-Combustion, Industrial Forklift Trucks from Japan, 53 FR 12552 (April 15, 1988) (Forklift Trucks). In that case, the Department disregarded the respondent's data and used BIA because it discovered extensive discrepancies, inconsistencies, unreported expenses, methodological and mathematical errors, and information unsupported by the company's accounting records.

Toyota argues that its response contained no material deficiencies, and, thus, the Department has no basis for disregarding its data and using BIA.

Toyota claims that the record in this proceeding stands in sharp contrast to the record in the Forklift Trucks case. Toyota asserts that in Forklift Trucks, the Department discovered the following errors in the submitted data: (1) Substantial errors in home market and U.S. sales transactions; (2) the COP was not adjusted to actual costs; (3) Sumitomo reported costs that were incurred after the POI; (4) costs of services performed by related suppliers were not reported; (5) failure to identify a related supplier that was one-hundred percent owned by Sumitomo and operating at a loss. According to Toyota, it did not have such errors. Toyota maintains that only substantial discrepancies warrant the rejection of an entire questionnaire response (see Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, 54 FR 19035 (May 3, 1989) (AFBs Investigation).

DOC Position

The errors in Toyota's cost response are not so great as to require us to reject the response *in toto*. However, we believe that, as enumerated in various other comments in this notice, certain portions of the response warrant the application of BIA (*see* Memorandum from Deputy Assistant Secretary Sailer to Assistant Secretary Dunn dated May 18, 1992).

Comment 5

Toyota asserts that the transfer prices it reported for parts supplied by related and unrelated companies are accurate. Toyota maintains that the reported data should be used without adjustment for four reasons: (1) All the reported prices verified; (2) Toyota uses the same basic procedures to negotiate prices with all of its suppliers; (3) the material and components supplied by related parties were sold at prices that were above the supplier's fully allocated costs of production; and (4) there is no indication that prices differed between Estima and Previa parts from the same supplier. (The Estima and Previa are Toyota's home market and U.S. minivan models, respectively.) As a result, there was no significance in the different transfer prices charged by related suppliers for components used in the Estima, as opposed to components used in the

Previa. According to Toyota, the Department should therefore use the transfer prices it reported without adjustment when calculating CV and the difmer adjustment. Toyota also contends that the "related party provisions" of the statute are not pertinent to the calculation of a difmer adjustment.

Petitioners state that, as evidenced by information on the record, it is obvious that Toyota's difmer adjustment claims are not based on arm's length transactions between related-party keiretsu members. Petitioners maintain that the Department should reject Toyota's difmer claims and that the only reasonable basis for calculating the FMV of the Previa is to base the calculation on either Toyota's pricing data exclusive of its difmer adjustments, or, alternatively, on the CV reported by Toyota adjusted to correct the deficiencies found at verification.

Petitioners assert that rejection of related-party transactions for difmer adjustments and CV is consistent with the Department's past practice. To support their argument, they cite the Department's decisions in the Final Results of Antidumping Duty Administrative Review: Certain Steel Pails from Mexico, 55 FR 12245 (April 2, 1990) and Color Television Receivers from Korea; Final Results of Antidumping Duty Administrative Review, 49 FR 50420 (December 28, 1984).

DOC Position

Since we are using CV for determining FMV, this issue regarding home market price and difmer calculations is moot. However, we agree, in part, with petitioners' position on CV application. We have determined that the transfer prices between Toyota and its related suppliers do not represent arm's length transactions within the meaning of section 773(e)(2) of the Act. For the reasons discussed below, we have adjusted the transfer prices reported by Toyota using BIA.

From the inception of this investigation, we have collected a considerable amount of information regarding transactions between Toyota and its related and unrelated suppliers. Related party transactions accounted for a considerable portion of the cost of producing a minivan and we were uncertain if such transactions might affect our analysis. As the investigation proceeded, our analysis of Toyota's data gave rise to additional questions. In addition, petitioners made numerous allegations that these transfer prices did not represent arm's length transactions. See Memorandum from Deputy Assistant Secretary Sailer to Assistant Secretary Dunn, dated December 13, 1991, for a detailed discussion of this issue.

Toyota reported that, with regard to negotiating and purchasing parts and components used to produce minivans, it treats all suppliers, whether related or unrelated, in the same manner. Finally, it indicated that through the negotiation process, Toyota is able to obtain some knowledge of the factors which would cause a supplier's costs to change.

Despite Toyota's assertion, our analysis of the prices between Toyota and its related suppliers reveals that there is a systematic pattern of differences with respect to one element of the prices paid for parts and components used to produce the minivan sold in the home market and that same element of the prices paid for the parts and components used to produce the exported vehicle. Toyota has claimed that these differences are due to economic factors. We, however, have analyzed Toyota's claims for the cause of the observed differences and have found Toyota's explanations unconvincing when taken as a whole.

Toyota's explanations for this pattern directly contradict what it reported and what we observed at verification regarding the one element of the transfer prices at issue. The pattern we observed is also not consistent with Toyota's explanations regarding its price negotiations process; nor do Toyota's explanations for this pattern have merit. For example, for one pair of components, Toyota claimed that the difference in the transfer price element was due to the fact that the home market component was different for a certain factor. Yet, for another pair of components, Toyota claimed that a comparable difference had the opposite effect.

We normally compare related party transactions with similar unrelated party transactions to determine if the related party transactions are made at arm's length. In this case we have no comparable unrelated party transactions to use as a "benchmark" to assess accurately the transfer price element in question. However, the pattern we observed, with respect to this element, is not consistent with an arm's-length negotiating process and may distort the results of our calculations. We have determined, therefore, that the transfer prices Toyota reported do not represent arm's-length transactions, and, as BIA, have adjusted these prices. *See* Memorandum from Deputy Assistant Secretary Sailer to Assistant Secretary Dunn, dated May 18, 1992, for a more detailed discussion of this issue.

We have limited this adjustment to transactions involving related suppliers. Given Toyota's characterization of its price negotiation process, we suspect that the pattern may also exist with regard to unrelated suppliers. The record in this case, however, does not support an adjustment. Nevertheless, we intend to continue our inquiry into this matter in future proceedings.

Comment 6

With respect to intracorporate transactions between TAB and TMC, Toyota calculated its adjustments to the cost of minivans based upon weighted-average adjustments of all types of vehicles produced by the company and argues that this method is appropriate since it treated these adjustments as purchase price variances. According to Toyota, purchase price variances generally reflect a weighted average for broad groups of products and are rarely available on a vendor- or product-specific basis. Toyota maintains that the Department routinely accepts purchase price variances in its cost calculations for specific products under investigation. To support its claim, Toyota cites the Department's decisions to use the same basic calculation methodology to adjust costs in Final Results of Antidumping Duty Administrative Review: Antifriction Bearing (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, 56 FR 31732 (July 11, 1991) and the AFBs Investigation.

Petitioners counter by stating that, as evidenced by information on the record, Toyota's methodology for reporting TMC's and TAB's intercompany transactions is inaccurate. According to petitioners, Toyota's calculation distorted the company's minivan production costs and the Department should, therefore, reject Toyota's reported cost data.

DOC Position

The adjustment Toyota made to report TMC's and TAB's intercompnay transactions was inaccurate. This adjustment is not like a purchase price variance as Toyota argues. Purchase price variances relate to differences between a company's standard cost for a part and the actual price paid for that part. The adjustment in question is not based on the differences between standard costs for parts and the actual prices paid for such parts. While the exact nature of the adjustment is proprietary, (and, thus, cannot be explained fully here), the adjustment was made to account for a specific factor. Toyota was unable to support

either the accuracy or the reasonableness of its minivan cost.

Comment 7

Toyota argues that since the total of its non-operating income related to minivan production exceeded the total of its non-operating expenses, the company was correct in excluding from its COP certain non-operating expenses that the Department considered related to minivan production. Toyota claims that the Department has consistently allowed non-operating income as an offset to non-operating expenses, and cities Final Results of Antidumping Duty Administrative Review: Television Receivers, Monochrome and Color, From Japan, 56 FR 5392 (February 11, 1991) (Television Receivers).

Petitioners argue that the Department allows non-operating income offsets only when the producer demonstrates that the income items are related to company operations. Because Toyota did not demonstrate that each of its non-operating income items is related to its motor vehicle operations, petitioners contend that the Department should deny Toyota's offset. Petitioners point out that in Television Receivers, the Department allowed short-term interest earned as an offset to interest expenses, but did not allow other non-operating income to be used as an offset because it did not consider that income to be related to operations.

DOC Position

We agree, in part, with Toyota. In keeping with Department practice, we generally consider disposal of fixed assets to be a normal part of a company's operations and have included, therefore, any gains or losses generated by these transactions in the cost of production calculation (see AFBs Investigation). Thus for TAB, we allowed the gains on the sale and rental of fixed assets to offset the loss on disposal of fixed assets. We also included TAB's bonuses to directors and auditors in its administrative expenses because these costs reasonably could be determined to be related to all segments of company operations. However, because we found no evidence that rental income was related to TAB's vehicle operations, we did not include the reported rental income amount as an offset to TAB's administrative expenses.

Comment 8

Toyota asserts that TAB properly applied an eight-month average assembly line variance to its minivan COP. Toyota maintains that, even though the data in its variance calculation included two months outside the POI and even though these two months had different production levels than the six months, using the overall variance calculated using these data did not result in a distorted per-unit minivan cost.

Toyota notes that variances are never completely reliable until the end of a financial reporting period and that there are many other costs that are adjusted at the end of the fiscal period. Thus, Toyota contends, it is necessary to use the assembly line variance incurred in the period it used, in order to most accurately reflect actual costs. Toyota also claims that production levels in the two months outside the POI were not significantly different than those in the remaining months, and the effect on cost caused by the two months was, at most, insignificant.

Petitioners state that Toyota cannot reasonably dismiss its use of an assembly line variance as creating, at most, an insignificant distortion in reported costs. Petitioners claim that the differing production levels were substantially different than they would have been if production had been uniform over the period. Consequently, the significant difference will almost certainly have a major impact on an assembly line variance. In light of this impact, petitioners recommend that the Department adjust the assembly line variance to reflect more accurately the true minivan production cost during the POI.

DOC Position

We agree with petitioners. Toyota's calculation of TAB's assembly line variance included months outside the POI and, as such, failed to account for the effect that the significantly different production levels in those months would have on minivan assembly costs incurred by the company during the POI. We therefore revised Toyota's variance calculation to reflect only those costs incurred by TAB during the six months of the POI.

Contrary to Toyota's claims, our revised adjustment does not distort TAB's minivan production costs. Instead, it reasonably reflects TAB's actual POI costs by accounting only for costs incurred during the six POI months.

Comment 9

Toyota argues that its calculation of R&D costs directly attributable to the Previa and Estima should be used in the calculation of COP and CV. Toyota asserts that it is the Department's practice to require R&D expenses to be allocated to a specific product and included in the COM in cases where R&D is product-specific and plays a significant role in the design and development of the product. To support its argument, Toyota cites several cases including Final Determination of Sales at Less than Fair Value: Erasable Programmable Read Only Memories (EPROMs) From Japan, 51 FR 39680 (October 30, 1986) and Final Determination of Sales at Less than Fair Value: 64K DRAMs from Japan, 51 FR 15943 (April 29, 1986).

Petitioners claim that Toyota's R&D expenses used to calculate production costs for the preliminary determination were wrong. Petitioners state that Toyota has proposed a new R&D allocation methodology in its case brief and that this proposed methodology is also wrong. Petitioners claim that Toyota attempted to allocate minivan-related R&D costs incurred to date over total current and future minivan production. They claim that such an allocation is indefensible on several grounds: (1) The accuracy of future sales projections cannot be tested, (2) future redesign and development costs must be included, and (3) because motor vehicles share several common parts, it is virtually impossible to isolate all "product-specific" costs with confidence.

Petitioners admit that in some cases the Department has preferred the calculation of product-specific R&D expenses over the allocation of company-wide R&D costs to a product under investigation. Petitioners maintain, however, that these cases are exceptions to the rule. Petitioners claim that, in such cases, the Department examined all company R&D expenditures to determine which ones had any relationship to the product under investigation and allocated those expenditures over a carefully considered production estimate. Petitioners state that, for a product like 64K DRAMs, where the investigation came at the end of its life cycle, the Department had a reasonable basis for (1) calculating actual R&D expenditures over the life of the product, and (2) estimating the output over which those R&D expenditures were to be amortized. In this case, petitioners claim that Toyota has offered no acceptable basis for estimating either total expenditures or total output.

Petitioners maintain that it is the Department's general practice to treat R&D costs as general period expenses that are borne by period sales. According to petitioners, Toyota's proposed allocation methodology differs substantially from this past practice and calls for the use of data that cannot be

tested. According to petitioners, Toyota has not demonstrated that its methodology meets the required circumstances regarding allocation of R&D expenses on product-specific basis.

DOC Position

We did not use Toyota's proposed "product-specific" R&D calculation for the final determination. The company's proposed calculation failed to recognize expected future R&D costs related to minivan production. Moreover, the difficulties inherent in Toyota reliably estimating the future costs and the volume of Toyota's projected minivan production, make it impossible to determine the accuracy of Toyota's per unit product-specific R&D. Therefore, we relied on the R&D costs submitted in Toyota's original questionnaire response, which was based on the company's period R&D expense.

Comment 10

Petitioners claim that a certain TMC material cost variance has limited application to minivans and is clearly inappropriate. Petitioners also argue that depreciation cost variances specifically applicable to minivans incurred by TMC and TAB were improperly computed. Additionally, petitioners assert that Toyota overstated the cost of sales base over which general R&D and G&A expenses were allocated and thus understated general expenses.

Toyota agrees with petitioners that such adjustments would more precisely compute the minivans' costs. However, it maintains that the petitioners have mischaracterized the magnitude of the issue. Toyota states that all of the adjustments are minor corrections. Toyota explains that the materials and depreciation cost variances were calculated using the same method that Toyota uses in its cost accounting system and that the small error to general R&D and G&A expenses provide no basis for rejection of the submission.

DOC Position

We agree with both petitioners and Toyota. Toyota provided corrections to the submission for the certain material cost variance and the TAB depreciation cost variance. We analyzed the corrections and made additional adjustments to correct the TMC depreciation cost variance and the general R&D and G&A expense error.

Toyota Sales Issues

Comment 11

Petitioners claim that Toyota improperly included certain costs in the calculation of TMS's indirect selling expenses that should have been classified as operating costs and treated as G&A expenses.

DOC Position

We disagree. Based on our review of the documents obtained at verification, we have determined that Toyota properly classified these expenses as G&A.

Comment 12

Petitioners concur with the Department's decision at the preliminary determination to include, as part of the adjustment reported by Toyota for certain movement expenses, profit earned by the wholly owned subsidiaries providing these services. Petitioners argue that such profit should not be excluded from the fees, as Toyota has not demonstrated that the profit earned by the subsidiaries was directly related to the services provided by them.

Toyota argues that the profit of its subsidiaries should be excluded from the fees paid to them, since profit earned on transactions between a wholly owned subsidiary and the parent is not a cost incurred by the corporation as a whole. Toyota also maintains that, as it reported the full amount of the fees it paid its subsidiaries for services they provided, the Department should deduct the profit of the subsidiaries from the appropriate expenses in order to arrive at the true expense to Toyota, which is its subsidiaries' costs of providing the services.

DOC Position

When evaluating the provision of transportation services by related parties, we consider whether these services are provided at arm's-length prices. If we determine that they are, we use them, even though there is an element of intracorporate profit, because we determine that arm's-length prices would include the cost plus a reasonable profit. If we determine that they are not at arm's length, we disregard the profit.

Because we assume that it is to a respondent's benefit that the profit be taken out of deductions to USP but included in deductions to FMV, we place the burden on respondents to demonstrate whether these transactions are, or are not, at arm's length.

In our October 30, 1991, deficiency questionnaire, we asked Toyota if its subsidiaries provide movement expenses at arm's-length prices. Toyota did not answer this question. Thus, since Toyota did not provide any evidence that such prices were established at arm's-length, we have used the reported related-party charges, inclusive of profit, in our calculations. This treatment is consistent with our treatment of other U.S. movement expenses provided by wholly owned subsidiaries of Toyota. Where Toyota chose to demonstrate that such services were provided at arm's-length prices, we included the suppliers' profits in the prices.

Comment 13

Petitioners maintain that the Department properly treated as direct selling expenses certain third party payments made by CAT. Petitioners contend that not treating these payments as direct selling expenses would be ignoring the direct relationship between the payments and vehicle sales.

Toyota argues that the third party payments should not be considered a selling expense at all, as they are not dependent upon the sale of vehicles.

DOC Position

We agree, in part, with petitioners. In Toyota's responses, and at verification, we found that these payments were tied directly to sales made through the distributor. However, we found that a portion of the payment is due whether sales are made or not. We classified that portion of the payment as an indirect selling expense and the remainder, which would not have been paid but for the sale, as a direct selling expense.

Comment 14

Petitioners argue that, because Toyota had no short-term borrowings during the POI, the Department should use a zero net credit expense in the calculation of FMV.

Toyota counters that the Department correctly calculated its imputed credit expense for the period between the date of sale and the date of receipt of payment. Toyota also maintains that, because it did not have any short-term borrowings during the POI, it calculated its imputed credit expense using the short-term prime rate in Japan. It asserts that this methodology conforms with the Department's longstanding practice to use the prime rate in calculating credit costs when a company has no short-term debt. Toyota cites the Department's Study of Antidumping Adjustments Methodology and Recommendations for Statutory Change (November 1985).

DOC Position

Regardless whether a company chooses to finance its accounts receivables with short-term borrowings, there is an inherent opportunity cost in

carrying the receivables. As we confirmed at verification, the Japanese short-term prime rate is the appropriate measure of opportunity cost for Toyota. Therefore, we have used this rate in our calculation of imputed credit expenses for purposes of the final determination.

Comment 15

Toyota argues that the Department should consider all of its sales in the United States to unrelated distributors to be purchase price sales, not ESP sales, for purposes of the final determination. Toyota maintains that such sales meet the criteria for purchase price sales set forth in the Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet and Strip from the Republic of Korea, 56 FR 16305 (April 22, 1991). These criteria include: (1) The merchandise was purchased or agreed to be purchased by the unrelated U.S. buyer for exportation to the United States prior to the date of importation into the United States; (2) the related selling agent located in the United States acted only as a processor of sales-related documentation and as a communication link with the unrelated U.S. buyer; (3) rather than entering the inventory of the related selling agent, the merchandise in question was shipped directly from the manufacturer to the unrelated buyer, thus not giving rise to storage and associated costs on the part of the selling agent or creating the added flexibility and marketing for the exporter; and (4) direct shipment from the manufacturer to the unrelated buyer was the customary commercial channel for sales of this merchandise between the parties involved.

Petitioners contend that the Department should continue to treat such sales as ESP sales, as TMS is active in all phases of arranging for the importation of the vehicles, delivering them to its distributors, developing marketing strategies, and strengthening the U.S. customer base.

DOC Position

We agree with petitioners. Toyota's related selling agent in the United States, TMS, acted as more than a processor of sales-related documentation. During verification, we observed that TMS is fully responsible for the marketing of the subject merchandise in the United States. TMS works closely with an unrelated advertising agency to formulate marketing strategies, and bears the expenses for the production of media advertisements and the purchasing of print, radio, and television space. In addition, TMS and its related distributors share a portion of the advertising expenses of the Toyota Dealership Associations (TDAs). TDAs combine their resources to finance marketing and advertising programs in their respective geographical regions. Along with bearing a portion of the TDAs' expenses, TMS is also responsible for collecting the fees paid into the pool from each dealer and funneling the pooled fees back to the TDAs.

TMS also plays an active role in the processing of warranty claims, importing parts used to make warranty repairs, and arranging for additional options to be installed in the United States. In addition, we found at verification that it is customary for TMS to take title to the goods prior to the unrelated buyer. We reviewed the documents supporting payments by TMS to TMC for the purchase of the vehicles prior to the sale to the unrelated distributor. Toyota indicated that, during the POI, it maintained minivans in its inventory that it later sold to unrelated distributors.

Given all of these circumstances, we believe that the use of ESP to determine USP is appropriate.

Comment 16

Toyota maintains that, for certain home market sales for which it has not yet received payment, the Department should calculate imputed credit expenses using as the payment period the time between the date of shipment and the date of verification.

Petitioners contend that the preliminary determination was correct in assigning the average payment period for the Prefecture in which the customer in question is located. Petitioners maintain that this methodology is consistent with past Department practice and cites Coated Groundwood Paper from the United Kingdom, 56 FR 5923 (November 4, 1991) (Paper), where the Department used the average credit period for all U.S. sales to calculate credit expense for two bankrupt customers.

DOC Position

We agree with petitioners and have used the average payment period for the Prefecture in which the customer in question is located. In Paper, we used, as the payment period for unpaid U.S. sales, the average payment period for all other ESP sales. The average payment period for the Prefecture in which the customer in question is located is a refinement of, and consistent with, that decision, and is appropriate.

Comment 17

Toyota maintains that the expenses it incurred during the POI with respect to a certain program it offers home market dealers are properly classified as indirect selling expenses, since the associated costs are not tied to any particular vehicle sales.

DOC Position

We agree. Based on our findings at verification, we have determined that Toyota incurred the costs associated with this program regardless whether sales had been made by the dealers participating in the program. Because these expenses cannot be tied to particular sales, we treated them as indirect selling expenses.

Mazda Cost Issues

Comment 18

Petitioners claim that by reporting interest expense on a non-consolidated basis, Mazda has understated its minivan production costs. Petitioners note that the Department's established practice is to calculate respondent's interest expense on a consolidated basis. Petitioners also argue that, since Mazda's consolidated financial statements report interest income and expense inclusive of income earned and expenses incurred by Mazda Credit Corporaton (MCC), application of Department precedent suggests that MCC's expenses be included in Mazda's interest computation. Petitioners cite Final Determination of Sales at Less Than Fair Value; Brass Sheet and Strip from the Netherlands, 57 FR 9534 (March 19, 1992) and Final Results of Administrative Review: 3.5" Microdisks and Coated Media Thereof from Japan, 56 FR 58046 (November 15, 1991), where the Department used respondents' consolidated interest expense to calculate the production costs of the subject merchandise.

Mazda claims that net interest expense incurred in the production of MPVs should be calculated using MC's fully-verified, non-consolidated interest income and expense as the best reflection of the borrowing costs incurred by that company to fund its automobile manufacturing operations. Mazda states that by using MC's non-consolidated interest income and expense, the Department avoids disorting the net interest calculation. Mazda asserts that its consolidated financial statement groups MC's financial results with those of several other companies whose business operations vary widely from those of MC. According to Mazda, combining the

borrowing experience of these divergent companies with that of MC leads to a distortion in the interest calculation. Moreover, Mazda argues that use of the non-consolidated data would conform to the Department's practice in analogous cases where a corporate group is consolidated and includes companies in a wide variety of business activities where the companies producing subject merchandise do not exercise control over the operations of other group companies.

Mazda claims that the cases cited by petitioners in support of their argument merely stand for the proposition that under normal circumstances the Department prefers to calculate interest costs on a consolidated basis. Mazda asserts that its circumstances are not ordinary and that the facts are sufficient for the Department to exercise descretion and rely on a more appropriate, non-consolidated methodology.

Finally, Mazda claims that, should the Department employ a consolidated interest expense calculation, MCC should be given special treatment. According to Mazda, MCC operates like a bank and, as such, its operating revenues are derived from interest income on auto loans. Mazda contends that if the Department includes all of MCC's interest expense in its net interest expense calculation, equity dictates that this expense should be offset by all of MCC's interest income including that earned from automobile installment loans which, in a non-financial entity, would be classified as interest income. Mazda states that petitioners' silence indicates that they have no objection to the classification of MCC's installment revenue as interest income and an offset to that company's interest expense.

DOC Position

We agree with petitioners. In rejecting Mazda's claim that the Department should accept the company's non-consolidated interest expense calculation, we followed our well-established practice of deriving net financing costs based on the borrowing experience of the consolidated group of companies. See final Results of Antidumping Duty Administrative Review: Television Receivers, Monochrome and Color, From Japan, 56 FR 34180 (July 26, 1991); and the AFBs Investigation, 54 FR 18992 (May 3, 1989). The Department has followed this practice in those cases involving consolidated groups whose member companies are involved in a wide variety of business activities. Our practice is based on the fact that the group's parent, primary operating company, or other controlling entity, because of its influential ownership interest, has the power to determine the capital structure of each member company within the group.

Mazda's assertion that the members of its consolidated group operate in a wide variety of businesses is inaccurate. Most of the members of Mazda's consolidated group are either directly or indirectly involved in manufacturing, selling, or financing automobiles produced by Mazda. More importantly, Mazda's claim that the operations of these same divergent businesses are not controlled within the consolidated group of Mazda companies directly contradicts the fundamental principles underlying the economic and accounting concept of consolidation. According to generally accepted accounting principles (GAAP), in most circumstances, majority equity ownership is *prima facie* evidence of corporate control (see "Consolidated Financial Statements", Accounting Research Bulletin No. 51 (New York: AICPA, 1959). As such, Mazda has not presented evidence sufficient to show that the Department's practice of calculating interest expense based on the consolidated group of companies would result in any distortion of the true financing costs of MC's operations.

Regarding Mazda's claim that MCC should be excluded from the calculation of Mazda's consolidated interest expense or, at a minimum, be allowed to offset its interest expense with revenue from automobile installment loans, we determined that, as a member of a consolidated group of companies, the operations of a financing company remain under the controlling influence of the group. Like other members of the consolidated group, the financing company's capital structure is largely determined within the group. Consequently, its interest income and expenses are as much a part of the group's overall borrowing experience as any other member company. See final Results of Antidumping Duty Administrative Review: Antifriction Bearings and Parts Thereof from the Federal Republic of Germany, 56 FR 11736 (July 11, 1991). Additionally, we note that, while we have included in our calculation of Mazda's net interest expense the interest income earned by MCC on its short-term investments of working capital, we have excluded MCC's installment loan revenue. We consider these loans to be long-term investments. The Department's traditional practice has been to exclude income earned from such investments since it does not reflect working capital investments available for the group's daily business activities. See Final Results of Antidumping Duty Administrative Review: Titanium Sponge from Japan, 54 FR 13403 (April 3, 1989); Final Determination of Sales at Less Than Fair Value: Certain All-Terrain Vehicles from Japan, 54 FR 4864 (January 31, 1989): Final Results of Antidumping Duty Administrative Review: Cellular Mobile Telephones from Japan, 54 FR 48011 (November 20, 1989); and Final Results of Antidumping Duty Administrative Review: Fresh Cut Flowers from Columbia, 55 FR 20491 (May 17,1900).

Comment 19

Petitioners allege that Mazda's application of an aggregate, corporate-wide standard cost variance for materials, labor and overhead could distort the company's reported production costs.

Mazda contends that its use of an aggregate variance for all production cost elements is reasonable and that disaggregating its overall variance would not lead to any appreciable difference in the company's reported minivan costs. Mazda cites several factors that it believes demonstrate the reasonableness of applying a single company-wide variance: (1) The company's system of standard cost revisions and the amount of the overall variance indicate that Mazda's standard costs are very precise and the possibility of a distortive variance for any single element of production cost is remote; (2) Mazda's standard costs for purchased parts are revised periodically to reflect the actual market prices that Mazda pays to its suppliers and, therefore, the likelihood of any distortion is also remote; (3) the nature of the company's manufacturing process is such that labor and overhead variances do not vary from vehicle to vehicle; and (4) Mazda's application of its overall variance is consistent with the company's internal financial accounting practices and established Department practice is to accept accounting data that have been prepared in a manner consistent with the respondent's normal accounting principles.

DOC Position

We agree with petitioners. While the Department may accept a respondent's production costs as valued in accordance with that company's normal accounting practices, it will not do so if those accounting practices distort the actual production cost of the subject merchandise. See Final Determination of

Sales at Less Than Fair Value: Tubeless Steel Disc Wheels from Brazil, 52 FR 8947 (May 20, 1987).

Mazda employs a process cost accounting system in which standard materials, labor and overhead costs are calculated for each step of its manufacturing process. Mazda derives materials, labor and overhead production cost variances by calculating the difference between the actual cost that the company incurs for each of these cost elements and the corresponding standard cost. Where actual costs exceed standard costs, an unfavorable variance exists. In preparing the company's financial statements, Mazda aggregates materials, labor, and overhead variances (both favorable and unfavorable) and makes a single variance adjustment to the company's total manufacturing costs for the period, restating those costs from standard to actual cost.

Mazda's accounting methodology for production cost variances provides a reasonably accurate calculation of financial statement cost of sales for the combined costs of all types of vehicles produced by the company. Its application does not necessarily result, however, in an accurate measure of production cost for a single vehicle or line of vehicles since specific cost elements may comprise varying portions of an individual product's total cost. For example, application of a combined unfavorable materials cost variance and favorable labor cost variance to the standard costs of two products with dissimilar ratios of materials and labor costs to total production costs would produce results different from those derived if the two variances were disaggregated and applied separately to each cost element.

For Mazda, we found that the ratio of materials, labor, and overhead costs to total production costs differed for individual minivan models. Moreover, we found that Mazda's use of its aggregate company-wide variance resulted in production costs for individual models that, in some instances, were materially different than those that would have resulted had the company applied specific variance factors to each element of minivan production cost. We, therefore, derived individual variance factors for materials and for labor and overhead and adjusted Mazda's reported production costs for each minivan model to reflect the use of these revised factors.

Comment 20

Petitioners contend that Mazda understated the actual cost of its U.S. further manufacturing operations by excluding from the calculation G&A expenses and net interest expense of MC's U.S. sales agent, MMA. Petitioners argue that these expenses should be included in Mazda's reported further manufacturing costs to correctly reflect the value added to the MPV by the company's U.S. manufacturing operations.

Mazda claims that MMA plays a very limited role in the further manufacturing of U.S. MPVs and that it is therefore inappropriate for the Department to include MMA's G&A and net interest expenses in the company's reported further manufacturing costs. Moreover, Mazda asserts that all of MMA's G&A expenses have been accounted for in the calculation of U.S. indirect selling expenses and to add a portion of these expenses to the further manufacturing calculation would result in double counting.

DOC Position

Mazda's further manufacturing operation consists largely of the installation of single air conditioner units in selected MPV models after the vehicles have been imported into the United States. Parts for the air conditioner units are assembled into kits by Mazda's subsidiary, MANA. The air conditioner kits are then sold to MMA and shipped them to various ports around the United States. At these ports, the kits are installed in MPVs by independent contractors who are paid by MMA.

Contrary to Mazda's claim, MMA's role in Mazda's U.S. further manufacturing operation is not insignificant. In fact, as the company primarily responsible for financing and managing air conditioner kit inventories, directing the logistics of transporting kits to the various U.S. entry ports, and arranging and paying for kit installation subcontractors, MMA is as significant to Mazda's further manufacturing operation as MANA. We therefore adjusted Mazda's reported further manufacturing costs to include MMA's net interest expense. We did not, however, include MMA's G&A expenses in our revised calculation because we verified that these expenses were accounted for as U.S. indirect selling expenses. Because indirect selling expenses are deducted from the USP, including MMA's G&A expense in our revised further manufacturing cost calculation would have resulted in double counting the expense.

Comment 21

Petitioners state that it is established Department policy to include in its calculation of COP and CV certain gains and losses resulting from transactions that Mazda has classified in its financial statements as extraordinary events.

Mazda asserts that the Department has no basis for including these gains and losses in COP and CV because the transactions were classified as extraordinary under Japanese GAAP and because the transactions did not relate to the production of MPVs. Mazda cites the Final Determination of Sales at Less Than Fair Value: Carbon Steel Structural Shapes from Norway, 50 FR 42975 (October 23, 1985) in support of its argument.

DOC Position

We agree with petitioners. The Department typically allows individual respondent companies to report the production costs of subject merchandise as valued under their normal accounting methods and following GAAP of their home country. However, since GAAP differs from country to country, the Department may choose to restate production costs submitted by a respondent company if it determines that the applicable home country GAAP materially differs from U.S. GAAP and that the difference distorts the respondent company's actual production costs. See Final Determination of Sales at Less Than Fair Value: Stainless Steel Hollow Products from Sweden, 52 FR 37810 (October 9, 1987).

Under U.S. GAAP, transactions which give rise to extraordinary events must be both unusual in nature and infrequent in occurrence for the company's normal activities for the environment in which it operates. The gains and losses which Mazda claims should be excluded from COP and CV, although properly classified as extraordinary under Japanese GAAP, do not meet either of these criteria. In fact, U.S. GAAP specifically notes that such gains and losses do not arise from extraordinary events. Contrary to Mazda's assertion, they are a normal part of the company's operations and therefore properly included in its production costs.

Mazda's argument that the gains and losses are unrelated to MPV production cannot be supported by evidence on the record. Rather, the evidence shows they are frequently recurring and are of such a nature that they should be charged to Mazda's company-wide production costs. We have, therefore, adjusted Mazda's G&A expense to account for the gains and losses previously excluded by the company.

Comment 22

Petitioners argue that the Department cannot accept Mazda's reported U.S.

further manufacturing costs. Petitioners claim that the costs incurred by Mazda for air conditioners installed in the United States should be virtually the same as those incurred for installation of air conditioners in the home market. Specifically, petitioners claim that Mazda has not explained the significant difference in the cost of the air conditioner parts kit that the company installs in the U.S. MPV and the kit that it installs in the home market MPV.

Mazda argues that, according to the antidumping statute, the Department is required to deduct from U.S. price the increased value resulting from the company's further U.S. manufacturing operations. Mazda claims that it has fully explained the cost differences between the installation of the U.S. and home market air conditioner units and that the Department therefore has no basis to question the company's reported further manufacturing costs.

DOC Position

We agree with Mazda and, with the exception of those adjustments noted at Comments 20 and 53 of this notice, we have used the company's reported further manufacturing costs to calculate USP.

As we learned during our verification, with the exception of a few minor parts, all of the components purchased for the U.S. air conditioner kits were purchased from unrelated suppliers. Likewise, we learned that Mazda also purchased its home market air conditioner kit from an unrelated source in Japan. During verification, we examined parts from both air conditioner kits and noted that while some kit parts were identical, others were not. Given these differences in the two kits and the fact that they were both purchased largely from different unrelated suppliers, we conclude that Mazda had correctly reported the costs it incurred for the further manufacturing installation of the U.S. air conditioner.

Comment 23

Petitioners assert that the Department's treatment of actual production costs, incurred by one of Mazda's related parts suppliers, must conform to its general treatment of Mazda's related-supplier costs for purposes of the sales below cost analysis. Petitioners state that the Department can either (1) accept Mazda's purchase prices for components as arm's-length transactions for both cost and difmer purposes, or (2) conclude that the actual costs of producing right-hand drive MPVs were below its home market prices. Petitioners maintain, however, that the Department cannot substitute the related suppliers' costs for Mazda's purchase prices for only those component parts verified and incorporate those costs in Mazda's difmer calculation.

Mazda claims that the verified cost data show that well under ten percent of its POI home market sales was made at below-cost prices. Mazda notes that the Department's cost verification report speculates that a number of home market MPV sales may have been made at prices below the company's COP based on the fact that the suppliers' costs changed as a result of changes in Mazda's anticipated production volume for home market MPVs. Mazda states that this speculation would only be correct if (1) contrary to the Department's standard policy, all parts, including those furnished by Mazda's unrelated suppliers, were valued at the suppliers' costs instead of the price paid by Mazda, and (2) the situation with respect to the cost of the home market MPV components verified by the Department was typical of all home market components.

Mazda argues that it is the Department's standard practice in COP and CV cases to value purchases from unrelated suppliers at the cost to the purchaser. Mazda states that it followed this practice in preparing its cost submission and valued parts from its unrelated suppliers at the actual purchase price paid by Mazda. Mazda states that the record is clear that these were arm's-length prices and that they represented the fair market value of the purchased parts. Mazda therefore concludes that the Department has no basis for adjusting or modifying parts prices from the company's unrelated suppliers in the sales-below-cost analysis.

Similarly, Mazda argues that the Department has no basis for adjusting the parts value that the company reported for its related suppliers. Mazda claims that it followed the Department's COP questionnaire instructions in reporting the actual production cost of parts purchased from suppliers in which Mazda held an equity interest of 50 percent or more. Mazda also claims that it reported the cost or transfer price, whichever was greater, for each component purchased from related suppliers in which the company held an interest of between five and 50 percent. Mazda maintains that the Department therefore has no reason to suspect that any of the related-party parts values were incorrectly reported.

Mazda admits that in preparing its COP response, the company incorrectly reported transfer prices for two components purchased from related suppliers that had production costs that exceeded Mazda's purchase price for the parts. Mazda claims that for one of the parts, the company mistakenly neglected to report the supplier's actual production costs.

For the other below-cost component, Mazda explains that, at the time of its COP submission, the company received incorrect cost data from its related supplier showing that the part had been sold to Mazda at a transfer price that was greater than the supplier's production costs. According to Mazda, it later learned from the supplier that the actual per-part cost of the component far exceeded the transfer price charged to Mazda. Mazda states that it informed the Department of this error in a letter dated February 10, 1992.

Mazda objects to the implication in the Department's cost verification report that the circumstances surrounding the second below-cost part could be representative of other home market parts purchased by Mazda from its related suppliers. Mazda claims that the fixed cost factor that accounted for the part's substantial production cost increase did not affect other home market MPV parts. Mazda explains that this is evident from the relationship of the transfer price charged for the below-cost, home market part to that of the comparable part used in the U.S. MPV. According to Mazda, since production volume for the company's home market MPV was far less than that of the U.S. vehicle, the higher price charged for the home market part reflects the heavy fixed cost element incurred by the supplier to produce both parts. Mazda asserts, however, that the price relationship between the below-cost part and its U.S. counterpart is atypical, that is, no other parts from the company's related suppliers have the same high home market transfer price and low U.S. transfer price. As a result, says Mazda, no other related-supplier MPV part included a fixed cost burden as substantial as that of the below-cost, home market part and, therefore, no other such part was sold to Mazda at a below-cost price.

DOC Position

While we concur with Mazda's analysis of related-supplier transfer prices for comparable U.S. and home market MPV parts and how those prices relate to the part's fixed production cost element, we do not agree with Mazda's claim that the second below-cost part noted above represents the only related-supplier component with a home market transfer price that was higher than that

of the comparable U.S. part. In fact, during verification of Mazda and its related supplier, officials at both companies informed us that the circumstances surrounding the increase in per-unit fixed costs for home market parts was not unique to the parts reviewed, but rather could reasonably have affected the cost incurred by other parts suppliers related to Mazda.

We identified comparable U.S. and home market MPV parts purchased by Mazda from its related suppliers. For these parts, where the home market price was higher than the U.S. price, we computed an estimate of the home market parts' production costs based on the ratio of the two transfer prices and the cost-to-transfer price ratios of the related-supplier parts verified by the Department. For unique home market parts (*i.e.*, home market parts that are not used in U.S. minivan), as BIA, we computed an estimated production cost based on the highest transfer price ratio for U.S. and home market comparable parts.

Comment 24

Mazda claims that the Department incorrectly calculated the selling expense components of CV at the preliminary determination. Because the Department calculated the selling expenses by dividing the average home market selling expenses over the average COM of U.S. MPVs and then applied the resulting percentage to the COM for each U.S. sale, the Department's calculations neither reflects Japanese selling expense activity nor selling expenses which should be associated with U.S. MPVs. Mazda maintains that the correct formula is to divide home market expenses by the average COM of home market MPVs and use that percentage to determine CV selling expenses. Mazda claims that such a formula would reflect the relationship between home market selling expenses and home market manfacturing costs and would allow the Department correctly to apply that relationship to U.S. sales.

Petitioners state that the methodology adopted by the Department in the preliminary determination is consistent with the antidumping statute, which instructs the Department to calculate CV by adding to the COM "an amount for general expenses" that is "usually reflected in sales of merchandise * * * under consideration * * * by producers in the country of exportation * * *" Petitioners state that Department practice is to calculate SG&A for purposes of CV by reference to the "actual" level of expenses incurred on comparable home market sales. Petitioners claim that Mazda's approach would understate the "actual" expenses incurred in the home market, as the average expenses expressed as a percentage of U.S. COM are well below the level actually incurred on each MPV sold in the home market.

DOC Position

We agree with petitioners and disagree with Mazda. Under section 773(e) of the Act, the Department is required to include in CV "an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation * * *" (emphasis added). In accordance with this language, at the preliminary determination the Department's methodology (calculating a per-unit amount of home market selling expenses and expressing that amount as a percentage of U.S. COM) allowed us to capture fully the amount of general expenses usually reflected in the sale of home market class or kind merchandise. Contrary to Mazda's assertion, this methodology is not mathematically incorrect. Since the percentage of the average U.S. COM is applied to each individual U.S. COM, the correct amount of selling expenses is allocated to each CV model.

We have examined our methodology, as well as alternative methods of calculating these expenses, including (1) Mazda's alternative of expressing home market selling expenses as a percentage of home market COM and (2) an additional approach of expressing home market selling expenses as a per-unit amount. While we can see that there are indeed alternatives to the approach taken at the preliminary determination, we are not convinced that these alternatives are more reasonable than our methodology. Accordingly, we have not changed the methodology from that used at the preliminary determination.

Mazda Sales Issues

Comment 25

Mazda requests that the Department use third country sales to determine FMV because its home market is too small in relation to the volume of its U.S. sales to form a reasonable basis for FMV. According to Mazda, one purpose of the antidumping legislation is to prevent foreign manufacturers from using excess profits earned in one market to support low-priced sales to another market. Mazda argues that, because the United States is Mazda's principal market, any excess profits earned by Mazda on its low volume of home market sales are far too small to allow any meaningful support of its U.S. prices.

In support of its position, Mazda cites several cases in which the Department used U.S. sales as part of the viability test. (See Final Determination of Sales at Less Than Fair Value: Small Business Telephones From Korea, 54 FR 53141 (December 27, 1989) (SBTS) and Final Determination of Sales at Less Than Fair Value: Motorcycle Batteries From Taiwan, 47 FR 9267 (March 4, 1982) (Motorcycle Batteries). In those cases, after determining viability by comparing the volume of home market sales to the volume of third country sales, the Department also compared the volume of home market sales to the volume of U.S. sales. According to Mazda, this additional test is supported by the legislative history of the viability provision in the statute.

Mazda submitted a sales response for its largest third country market, Canada, and argues that, even though this response was not verified, it was submitted in anticipation of verification and, therefore, can be considered a realistic estimate of Mazda's selling practices. Mazda contends that this would be consistent with the Department's approach in the Final Determination of Sales at Less Than Fair Value: Personal Word Processors from Japan, 56 FR 31101 (July 9, 1991) (PWPs), where the Department used an unverified response in the final determination.

Petitioners state that Japan is the appropriate market to use as FMV as (1) Mazda's home market is viable according to the Department's traditional viability test, (2) Canada is an inappropriate third country market because it is integrated with the U.S. market, and (3) the Canadian data submitted by Mazda is unverified. Petitioners contend that PWPs does not provide Department precedent on the use of an unverified response, as the Department used the response in that case in order to apply BIA. Petitioners assert that, if this case is to be decided on BIA, the data in the petition are clearly the appropriate BIA.

DOC Position

In accordance with 19 CFR 353.48(a), our practice has been to determine that a company's home market is viable if the volume of its home market sales is at least five percent of the volume of its third country sales. (See Final Determination of Sales at Less Than Fair Value: Silicon Metal from Brazil, 56 FR 26977 (June 12, 1991); (Preliminary

Determination of Sales at Less Than Fair Value: Steel Wire Rope from India, 56 FR 16322 (April 22, 1991); and section 773(a) of the Act.) As the volume of Mazda's home market sales meets this test, we are upholding our preliminary determination that Mazda's home market is viable.

Regarding the cases cited by Mazda in support of its argument, we note that these cases involved circumstances which were significantly different than those present here. In SBTS, the Department used U.S. sales in the viability test for one of several respondents becasue that respondent had no third country sales during the POI. Consequently, the Department was unable to use the viability test set out in the regulations in order to test whether the respondent's home market sales volume was adequate for comparison purposes. The Department tested the volume of home market sales against the volume of U.S. sales, rather than automatically using CV.

In Motorcycle Batteries, the Department also considered the volume of U.S. sales as part of its determination of home market viability for only one of a number of respondents. However, in that case, the volume of U.S. sales made by the respondent was not the only determinant of viability. More important was the fact that there was substantial dissimilarity between the company's home market and U.S models. Given the particular circumstances of that case, the Department determined that it was appropriate to use home market sales as the basis for FMV for one model and third country sales as the basis for FMV for those home market products determined to be too dissimilar to U.S. models to make reasonable comparisons. The Department did not determine that it was appropriate to disregard home market sales entirely, even though the volume of home market sales was less than five percent in relation to the volume of U.S. sales.

Finally, we recognize that petitioners have raised the issue of whether Canada is an appropriate basis for FMV given the degree of integration of the U.S. and Canadian automobile markets. However, as we have found the volume of home market sales adequate for comparison purposes, this issue is moot.

Comment 26

Based on allegations made by petitioners that the Department's "standard" POI (*i.e.*, the six month period prior to and including the month of filing of the petition) would not capture certain seasonal variations in Mazda's pricing, we established an eight-month POI for Mazda. Mazda argues that the Department should reverse this decision and use the traditional six-month POI, in order to avoid subjecting Mazda to a significant increase in the margin resulting solely from significantly different exchange rates in effect during October and November 1991. Mazda contends that the Department's practice is to extend the normal six-month POI only where good cause exists, *i.e.*, where the standard six-month period does not "adequately reflect the sales practices of the firms subject to the investigation." Final Determination of No Sales at Less Than Fair Value: Electrolytic Manganese Dioxide from Ireland, 54 FR 8776 (March 2, 1989), *aff'd in relevant part, Bomont Industries* v. *United States*, 718 F. Supp. 958, 960 (CIT 1989) Mazda contends that good cause to depart from normal practice is not present here, since the impact of seasonality on the preliminary margin was *de minimis*. As a second (and less preferable) alternative, Mazda argues that the Department should minimize Mazda's exposure to the "aberrant" exchange rates by dropping from its analysis all October and November sales of 1991 models, while including October and November end-of-model-year sales of 1990 models.

Petitioners state that Mazda has offered no new proof that the Department's prior determination was incorrect; however, petitioners argue, if the Department reopens the POI issue, it should follow the decision made in antidumping duty investigation of certain internal combustion forklifts from Japan in which the Department lagged the POI by several months due to the widespread use of post-sale incentives (see Forklift Trucks, *supra*.

DOC Position

We disagree with Mazda and are continuing to use an eight-month POI for this respondent. In our decision memorandum on this issue, dated September 12, 1991, we noted that the evidence on the record indicated seasonality with respect to Mazda's pricing. We noted that this behavior follows a predictable pattern of price increases and decreases dependent upon the introduction of new model vehicles in the fourth quarter and an attempt on the part of Mazda to liquidate its inventory of older model vehicles through price reduction programs. Using these findings, we concluded that there was sufficient information on the record to justify expanding the POI for Mazda from six to eight months. Mazda has provided no additional information which would cause us to reconsider this issue.

We note that Mazda's argument is not based on the contention that the Department's initial determination, that seasonality existed with respect to Mazda's pricing, is incorrect. Rather, it contends that the particular POI set by the Department is inappropriate because it captures two months in which "abnormal" exchange rates prevailed. In accordance with § 353.60(b) of the Department's regulations, the Department may account for substantial changes or fluctuations in exchange rates. Mazda has not demonstrated or even alleged, that these provisions apply. Accordingly, we have applied the prevailing exchange rates to all sales in accordance with our normal methodology in making the final determination.

Comment 27

Mazda argues that the Department should accept a level-of-trade adjustment based on U.S. data for sales comparisons between its home market dealers and its U.S. distributor. Mazda states that it is unreasonable for the Department to require it to base its claim on home market data as it does not sell to distributors in the home market and that, consequently, there is no home market data on which to base a claim. Mazda further states that the Court of International Trade indicated in *Fundicao Tupy S.A.* v. *United States*, 678 F. Supp. 898 (CIT), *aff'd* 859 F.2d 915 (Fed. Cir. 1988), that making an adjustment to account for cost differences inherent in different levels of trade is the Department's "duty."

Petitioners argue that the Department correctly rejected Mazda's level-of-trade claim at the preliminary determination. They note that the CIT has upheld the Department's discretion to reject claims based solely on U.S. experience. (See *Fundicao Tupy S.A.* v. *United States, supra; Silver Reed America, Inc.* v. *U.S.*, 711 F. Supp. 627 (CIT 1989); and *American Permac, Inc.* v. *U.S.*, 703 F. Supp. 97 (CIT 1988)). In addition, they state that the way in which Mazda reported its U.S. selling expenses has already taken into account any cost differences in selling at different levels of trade in the home and U.S. markets.

DOC Position

We agree with petitioners and have disallowed this adjustment becasue it is based on U.S. experience. It is not now, nor has it ever been, the Department's practice to allow level-of-trade adjustments which are based on U.S. experience. To do so would require the Department to assume that the cost differences involved in selling in the

foreign and U.S. markets are the same. There is no reasonable basis on which to make such an assumption. As correctly noted by petitioners, this position has been upheld by both the CIT and the Court of Appeals for the Federal Circuit.

Comment 28

Mazda argues that the Department should accept as reported its incentive payments made on home market new car sales. Mazda contends that the inaccuracies found at verification with respect to the way that it applied new car incentive payments to home market sales were immaterial. However, Mazda argues that, if we determine that its methodology is unreasonable, the correct data is on the record and should be used.

Petitioners argue that the Department should reject Mazda's new car incentives in their entirety, as (1) it was possible for Mazda to apply them accurately to the appropriate sales, (2) Mazda was given several opportunities to supply accurate data, (3) the incentive amounts reported were significantly overstated, and (4) certain of the payments appear to relate to non-MPV sales or MPV sales outside the POI. Petitioners argue that the Department has denied incentive claims in the past when the problems with the data were not nearly so egregious, and that if the Department fails to draw a sharply adverse inference from Mazda's decision not to present its data in a way that accurately reflects the company's prices and costs, it will encourage more elaborate efforts to package data in future cases. Regarding the revised data provided by Mazda, petitioners argue that there is no way to check the accuracy of this data. In addition, petitioners allege that these data do nothing more that illustrate the substantial errors in Mazda's earlier submission. Petitioners add that, if the Department is unprepared to reject these data in their entirety, it should follow the decision made in Final Results of Administrative Review of Antidumping Duty Order: Color Television Receivers from Korea, 49 FR 50420 (December 28, 1984) and treat payments under the incentive programs that have been allocated to, but not directly linked to, MPVs sold during the POI as an indirect selling expense.

DOC Position

At verification, we found that the way in which Mazda linked its incentive payments to individual sales resulted in various inaccuracies in the amounts reported. Accordingly, we find that it is appropriate to use BIA to determine the amount of these payments. As BIA, we are using the amounts reported in the sales listing. Accepting Mazda's data as reported has an appropriately adverse effect in calculating COP and, because we are basing FMV on CV, incentive payments were not further included in our analysis.

Comment 29

Mazda argues that the methodology that it used to calculate incentive payments to home market corporate customers (reporting the average rebate paid to each dearler) was reasonable. Mazda argues that it used an averaging methodology because tying the correct rebate amount to individual MPV sales would have required an extensive manual search through its records. According to Mazda, the Department does dot require respondents to undertake unduly burdensome tasks in order to obtain information which is not maintained in their accounting records. Finally, Mazda argues that the sample selected for verification of these incentive programs was not representative.

Petitioners argue that the pattern of overreporting of rebates suggests that Mazda's selection of an allocation methodology was deliberate and results-driven. Petitioners further suggest that it would have been a fairly simple task to report the correct incentive payments, especially since there are only a small number of home market sales during the POI, and that much of the work could have been done by Mazda's dealers. Consequently, petitioners argue that the Department should reject all of Mazda's corporate customer incentive claims.

DOC Position

At verification, we found that Mazda had consistently overreported these rebates, at times by a significant amount. We disagree with Mazda that, because the sample of transactions reviewed was small, it was necessarily unrepresentative. Accordingly, we find that it is appropriate to use BIA to determine the amount of these payments. As BIA, we have used the amounts reported by Mazda in its sales listing, for the reasons cited in the preceding comment.

Comment 30

On the day that the petition was filed, Mazda implemented a rebate program to clear out long-term inventory held by its dealers. Petitioners claim that the timing of this program raises the question of whether it was established in order to lower Mazda's home market price for purposes of this investigation. Therefore, petitioners ask the Department to disallow this program.

DOC Position

We disagree with petitioners. Although no previous program had been implemented for MPVs, we learned at verification that Mazda occasionally had similar programs for other vehicle lines. Therefore, we see no indication that Mazda implemented this program to circumvent the antidumping law, as petitioners imply. Accordingly, we have used it in our analysis for purposes of the final determination.

Comment 31

Petitioners argue that the Department should exclude from the home market sales listing all sales made to Mazda's dealers for use as demonstrator vehicles. Petitioners claim that these sales are equivalent to U.S. sales made under Mazda's demo/lease program and that Mazda excluded demo/lease vehicles from its U.S. sales listing. Petitioners' reason that both programs involve vehicles which are sold to the public in a "used" condition.

DOC Position

We disagree with petitioners. We have retained these sales in the sales listing as, contrary to U.S. experience, the home market vehicle is new when it is sold to Mazda's customer.

Comment 32

Mazda argues that it is inappropriate to calculate U.S. and home market warranty expenses as period expenses (*i.e.*, expenses incurred during the POI divided by the quantity of retail sales made during the POI. Rather, Mazda contends that dividing period expenses by cumulative MPV sales is more representative of Mazda's actual warranty experience on minivans. In addition, Mazda claims that it is entitled to a "start-up" adjustment to its home market warranty expenses as it introduced the MPV in the home market after it introduced the MPV in the United States. Mazda contends that it is inappropriate to compare costs at different stages of the warranty cycle without some adjustment, as warranty costs increase exponentially (rather than arithmetically) over time. Mazda finally argues that, if the Department prefers a period approach, it should adjust the warranty costs incurred in Japan during the POI by the percentage that U.S. costs increased during a comparable period in the MPV's warranty cycle. According to Mazda, this methodology takes into account the fact that the absolute incidence of

warranty claims may differ between the United States and Japan because of road conditions, etc.

Petitioners argue that adjusting for the timing difference noted by Mazda requires the Department to speculate on future warranty costs. According to petitioners, there is nothing in the record to substantiate the underlying assertion that, over time, Mazda's home market warranty experience will be the same as, or even similar to, its U.S. experience. Rather, petitioners state that home market warranty costs should be less than the costs in the United States at comparable points in time due to the learning curve effect. Furthermore, petitioners note that Mazda's argument fails to take into account the relationship between prices and costs (*i.e.*, as costs rise, so should prices). Finally, petitioners argue that the Department has departed from its normal practice of calculating period expenses only under exceptional circumstances which are not present here.

DOC Position

We agree with petitioners and have followed the methodology used at the preliminary determination to calculate warranty expenses. Specifically, we have calculated a per-unit adjustment based on warranty experience during the POI because it is the Department's practice to base warranty expenses on POI experience except in unusual circumstances. As Mazda has not demonstrated that its POI experience was not reflective of its actual warranty costs, we see no reason to depart from our normal practice in this case.

We also have disallowed Mazda's start-up adjustment because making the adjustment would require us to speculate on future warranty costs in Japan or to speculate on the relationship between U.S. and Japanese warranty experience. Mazda has provided no factual support for any of its requested adjustments; nor has it given the Department an adequate basis on which to speculate about future warranty costs. For example, Mazda has made no effort to demonstrate how warranty experience changes over time in its home market, as it did not provide comparable warranty data on other home market vehicles. Nor has Mazda demonstrated a warranty cost relationship between other home market and U.S. vehicles. Consequently, we have determined that it is inappropriate to allow the claimed adjustment.

Comment 33

Petitioners argue that Mazda's use of employee headcount to allocate home market indirect selling expenses incurred by the Customer Satisfaction Promotion (CSP) and Business Logistics (BL) Divisions skews the indirect selling expense calculation as the activity level of these two divisions is more a function of sales value than headcount. In addition, petitioners claim that Mazda's use of headcount has had the practical result of allocating significant expenses away from U.S. sales and to export sales to third country markets.

Petitioners also state that Mazda has allocated SG&A expenses to parts sales without recognizing that a significant portion of parts-related expenses support vehicle sales. Petitioners reason that parts are used both in vehicle production and for warranty purposes, not just for replacement purposes. Accordingly, petitioners argue, a portion of the parts costs should be allocated to minivan sales.

Mazda contends that its use of headcount is a more accurate means of apportioning the indirect selling expenses incurred by the CSP and BL Divisions than sales value because these divisions perform many functions for the home market which, for U.S. sales, are performed by Mazda's U.S. sales agent, MMA. Mazda contends that to allocate the Japan-side expenses on the basis of sales volume would mean attributing to U.S. sales the vast majority of Mazda's indirect selling expenses, which is clearly disproportionate to the amount of effort devoted to U.S. sales-related activities in Japan.

Regarding petitioners' argument that Mazda's headcount methodology results in allocating expenses away from U.S. sales and to third country sales, Mazda notes that the other overseas divisions handle sales to a significantly larger number of markets and that, consequently, it is logical that these divisions should employ more people (and, by extension, incur more expenses). Finally, Mazda notes that the Department has accepted headcount as a reasonable methodology in past cases.

Regarding parts costs, Mazda contends that relevant parts expenses have been appropriately included in either manufacturing costs or in U.S. indirect selling expenses. Therefore, Mazda asserts, no adjustment should be made.

DOC Position

We agree with Mazda and have accepted Mazda's headcount methodology to allocate indirect selling expenses. We disagree with petitioners that this methodology is distortive. At verification, we reviewed Mazda's calculations and determined that they were reasonable. In this case, using Mazda's employee headcount methodology is more accurate than using sales value, in that it is a better indicator of the amount of effort devoted by corporate headquarters employees to making sales in the different markets. In addition, we agree with Mazda that relevant parts expenses have been correctly captured in Mazda's reported manufacturing and selling expenses. Accordingly, we have not reallocated parts expenses for purposes of the final determination.

Comment 34

Petitioners contend that Mazda's indirect selling expenses should be recalculated to reflect more accurately expenses incurred in selling MPVs. Petitioners note that Mazda admitted in its case brief that it underestimated the amount of indirect selling expenses attributable to the sale of MPVs. Petitioners contend that these expenses must be revised upward in order to capture the full amount of home market indirect selling expenses included in CV.

Mazda contends that the amount by which its indirect selling expenses are understated is not significant.

DOC Position

We agree with petitioners. Based upon our review of the documents obtained at verification, we find that Mazda understated its home market indirect selling expenses and that this understatement is material. Consequently, we have adjusted the percentage reported for purposes of the final determination.

Comment 35

Petitioners contend that, although Mazda did not issue any commercial paper in the home market during the POI, the Department should revisit the credit expenses issue to determine whether either Mazda's records or the documents taken at verification support a different home market interest rate calculation.

DOC Position

At verification, we found that Mazda had correctly reported its home market short-term interest rate during the POI.

Accordingly, we have used this interest rate to calculate the home market credit expense for purposes of the final determination.

Comment 36

Petitioners request that the Department revise Mazda's indirect selling expense calculation to capture amortized costs for certain fixed assets used for advertising or promotional

purposes. Petitioners state that the Department found at verification that Mazda failed fully to include these costs.

DOC Position

At verification, we found that Mazda did not include in its reported indirect selling expenses amortized costs for certain assets for April and May 1991. As we do not have the actual costs for these months on the record, we are using BIA to determine them. As BIA, we are using the average monthly amortization cost reported by Mazda for the cost for each of the months in question.

Comment 37

Mazda argues that we should exclude MMA's U.S. repurchase program expenses from the margin calculations because the expenses associated with this program are incurred on the sale of used, not new, MPVs. Mazda contends, however, that if we treat these expenses as related to new MPV sales, we should treat these costs as direct advertising costs rather than sales-specific expenses.

Mazda states that two separate transactions occur with respect to the vehicles sold under the fleet repurchase program: (1) The original sale to the rent-a-car company and (2) the subsequent repurchase and resale of the same vehicle to a Mazda dealer as a used car. Mazda argues that the expenses in the first transaction are incurred whether the vehicle is eventually repurchased or not and that these expenses are properly included in the Department's margin analysis. Mazda contends that the costs incurred in the second transaction are entirely separate and distinct from those incurred on the sale of the *new* vehicle and therefore should be excluded from the Department's analysis for purposes of the final determination.

In order to demonstrate that this approach is consistent with Department precedent, Mazda cites the final results of two administrative reviews (see Final Results of Administrative Review: Drycleaning Machinery from West Germany, 50 FR 1256 (January 10, 1985) and 50 FR 32154 (August 8, 1985) (collectively Drycleaning). According to Mazda, in Drycleaning, the Department denied a respondent's request to consider the profit or loss on the resale of trade-in merchandise as a direct selling expense. Mazda contends that, in doing so, the Department carefully distinguished between the costs attributable to the original sale and the costs attributable to the subsequent resale. As such, Mazda states that the Department cannot include Mazda's repurchase expenses as either direct or indirect selling expenses in this case.

Mazda argues that if the Department concludes that the costs of the repurchase program must be attributed to new MPV sales, it should treat the expenses as direct advertising expenses attributable to all sales. Mazda argues that it has presented substantial information establishing that it participates in the repurchase program primarily for the purpose of increasing the public's exposure to its vehicles. This information includes, among other things, various internal memoranda which discuss Mazda's motivation for implementing the program. Mazda notes that, although these memoranda list other benefits than sales promotion, those purposes were secondary. As proof that its motivation was primarily to increase Mazda's exposure, Mazda notes that (1) all Mazda vehicles are exposed to the public through the program on a national basis, (2) the rent-a-car program does not negatively impact the value of its vehicles overall, and (3) the repurchase program provides a steady supply of used cars for Mazda dealers which allows the dealers to increase customer traffic consisting of potential new car buyers.

In addition, Mazda argues that the bases on which the Department made its preliminary determination to treat these expenses as sales-specific were incorrect. First, Mazda argues that the fact that it is possible to assign these expenses to individual sales does not mandate their treatment as sales-specific expenses. For example, Mazda notes that the Department does not make warranty adjustments on a sales-specific basis. Second, regarding the Department's concern that the rent-a-car companies do not provide for additional Mazda advertising or promotional literature, Mazda contends that additional advertisement by the rental company is not necessary to achieve Mazda's goal of public exposure to Mazda vehicles through first hand experience.

Finally, regarding the concern that promotional efforts directed at customers requesting a Mazda trial vehicle involve an element of chance, Mazda notes that the theory behind the program is that rent-a-car customers who have had positive experiences driving rented Mazda vehicles will be more inclined to consider buying a Mazda vehicle when they make a purchasing decision, rather than that customers will have more opportunities to test drive specific vehicles. Regarding this last point, Mazda cites a survey submitted by Mazda which shows that rental experience has had a very high level of positive impact on rental customers.

Petitioners state that the Department properly treated the costs associated with fleet sales to rent-a-car companies as sales-specific expenses. Petitioners claim that the repurchase agreement is part and parcel of the original sales contract and the costs of the transaction can be traced from the sale of the vehicle to the fleet customer through repurchase and resale at auction. Petitioners argue that the cite to Drycleaning is not relevant and would only apply if the issue was whether to adjust prices for a trade-in allowance that an automobile dealer might give a retail customer for the customer's used car.

In addition, petitioners disagree with Mazda's attempt to classify these expenses as direct advertising expenses. Petitioners contend that to treat the expenses incurred by Mazda under its repurchase program as advertising is to ignore the realities of the U.S. motor vehicle market. Furthermore, petitioners contend that the support that Mazda has offered for its position in fact disapproves it. For example, petitioners state that the survey provided by Mazda shows that rental car customers are not more likely to purchase a particular vehicle because they have driven it while renting. Finally, petitioners argue that the costs associated with Mazda's repurchase program are vehicle-specific. Petitioners contend that Mazda's warranty analogy is flawed, in that the Department would assign warranty expenses to particular sales, if possible. (See Final Results of Administrative Review: Color television Receivers from Korea, 49 FR 50420 (December 28, 1984).

DOC Position

We agree with petitioners that Mazda's repurchase and resale expenses are part of the original sales transaction. Accordingly, we have included these expenses in our analysis. We base this determination on the fact that the repurchase is effected as a direct and necessary condition of the original sale. While the resale is contractually not part of the original transaction, it happens as a direct and necessary consequence of the repurchase. In addition, the gain or loss on the resale is the only available measurement of the gain or loss on the repurchase. Therefore, we have used the gain or loss on the resale in our analysis.

The position enunciated in Drycleaning is inapposite here for two reasons: (1) The issue there concerned expenses associated with the sale of

two machines, a used one and a new one, and (2) the repurchase of the used drycleaning machine was not a contractual obligation of its sale as a new machine. Here the expenses are all associated with the original sale of a new vehicle and contemplated at the time of the sale.

Regarding whether these expenses should be treated as sales-specific or as direct advertising, we agree with petitioners that these expenses are more appropriately treated as sales-specific expenses. The expenses in question are clearly linked to each original fleet sale. It is the Department's general policy to assign selling expenses to specific sales whenever possible. Accepting Mazda's argument that these are advertising expenses would require the Department to weigh the various benefits gained through the implementation of the repurchase program and to determine which of these benefits provided Mazda's primary motivation. Not only are we disinclined to base the categorization of any expense upon the intent behind that expense, in this case it is beyond the Department's ability to measure Mazda's intent with any degree of certainty. Accordingly, we have assigned these expenses to specific vehicles for purposes of the final determination.

Comment 38

Petitioners argue that Mazda improperly excluded demo/lease sales from its U.S. sales listing. Petitioners allege that because these vehicles are imported as new vehicles, they are subject to the antidumping investigation. According to petitioners, these sales represent a significant volume of U.S. sales during the POI. Petitioners further argue that Mazda did not completely exclude these sales from questionnaire response in that it used the volume and value of these sales in its selling expense allocations. Petitioners claim that the result of this is to lower the amount of U.S. selling expenses allocated to each minivan sold to dealers. Moreover, petitioners claim that Mazda included similar vehicles in its home market sales listing. However, petitioners contend that, if the Department determines that these vehicles have been properly excluded, the costs of the program should be treated as a direct selling expense. Petitioners maintain that Mazda's use of these vehicles as demo/lease cars result in a direct cost to Mazda which should be reflected in the Department's analysis.

Mazda states that it properly excluded these sales from its U.S. sales listing because they were sales of used MPVs. Mazda states that the language of the antidumping statute clearly indicates that the responsibility of the Department is to investigate sales of subject merchandise in the United States and that, although the demo/lease vehicles were new at the time of importation, they were used (and therefore not subject merchandise) when sold to the first unrelated customer. Moreover, Mazda maintains that it was not inconsistent in its treatment of U.S. and home market demo vehicles; Mazda notes that its home market sales of these vehicles were included in the sales listing because they were sales of new minivans.

Mazda argues that these sales revenues were properly included in the calculation of U.S. indirect selling expenses because such expenses were incurred to support demo/lease sales just as they were incurred in order to make sales of new vehicles. Finally, Mazda contends that petitioners' suggestion that these expenses be treated as direct selling expenses is without merit. Mazda states that it is the Department's practice to treat as direct expenses only those expenses that are directly attributable to sales of the product under investigation. Mazda contends that the direct costs of the demo/lease program are not incurred in connection with the sale of new vehicles, but of used vehicles which are not under investigation.

DOC Position

Petitioners mischaracterized our action in the preliminary determination. The vehicles in question will be subject to an antidumping duty order, if one is issued, because they are new when they are imported into the United States. The Department, however, is not required to examine every sales transaction in determining whether sales have been made at less than fair value. Mazda requested that it be excused from reporting these sales because the demo/lease vehicles in question were in a used condition when they were sold to the first unrelated purchaser. Because these vehicles were not new minivans at the time of sale to the first unrelated purchaser and because they comprise a very small percentage of Mazda's total sales during the POI, we instructed Mazda not to report these sales in its sales listing. Nonetheless, it is entirely appropriate to include the sales in the denominator used to apply U.S. indirect selling expenses to USP.

Comment 39

Petitioners argue that Mazda has improperly classified MDA advertising, as well as certain regional advertising, as indirect selling expenses. Petitioners state that, to the extent that a respondent maintains that U.S. advertising is not a direct expense, it bears the burden of proof that it is not direct. Petitioners argue that Mazda has not met the burden of proof in this case. According to petitioners, MDA advertising meets the Department's direct advertising test as it is (1) product-specific and (2) directed at the customer's customer. Petitioners contend that both (1) the fact that Mazda is not able to control the nature of the advertising and (2) the fact that Mazda does not formally keep track of how the advertising funds are spent are irrelevant to whether this expense is classified as direct or indirect. Petitioners also note that Mazda tracks how MDA funds are spent through a report prepared by its advertising agency.

Petitioners contend that Mazda improperly calculated the amount of MDA advertising applicable to MPVs. Petitioners note that Mazda allocated DMA advertising to MPVs based on the sales value of MPVs in relation to Mazda's total U.S. sales. Petitioners contend that the proper allocation is based on the proportion of total MDA advertising actually spent on MPVs, which can be derived from the report prepared by Mazda's advertising agency.

Mazda contends that its MDA expenses are appropriately classified as indirect advertising because they are not incurred with respect to the product under investigation at the time that Mazda agrees to make its contribution. Mazda argues that these expenses are incurred regardless of whether MPVs are produced and sold by MMA or whether MPVs are advertised with MDA dollars. According to Mazda, this lack of control over the use of these funds makes these expenses "fixed" from Mazda's perspective. Regarding regional (including co-op) advertising, Madza contents that, like its MDA expenditures, it considers these expenses to be a general promotional expense. Moreover, Mazda states that is has no information on an overall basis concerning which vehicles were advertised with co-op dollars. Consequently, Mazda argues that treating MDA and regional advertising expenses as direct would be contrary to the reality of Mazda's business practices, as well as contrary to the Department's established view of direct expenses as those uniquely related to the sales under review.

Regarding the percentage used to allocate MDA advertising to MPVs,

Mazda argues that there is no basis for adjusting the percentage used, as the report cited by petitioners is only an "informal" and, by Department standards, imprecise indication of how total MDA media dollars are expended. Mazda notes that this report is used by MMA solely as a general information tool and that the numbers on this report cannot be reconciled with the expenditures on MMA's books.

DOC Position

We agree with petitioners and have reclassified the MDA advertising in question as direct. We agree that the issue of whether Mazda has control over how MDA funds are used is irrelevant. Ultimately, when the money is spent, the advertising is product-specific and directed at the customer's customer. Therefore, the two conditions under which the Department considers advertising to be direct have been met. Moreover, we note that the effect of the advertising on Mazda's sales is the same whether or not Mazda had control over the specific use of the funds. Under the same principle, we have also reclassified co-op and other types of regional advertising as direct.

Regarding the percentage used to allocate MDA advertising to MPVs, we have used the percentage found in the report prepared by Mazda's advertising agency. Although this percentage represents only an estimate, we believe that it is the most accurate reflection of Mazda's advertising experience with respect to MPVs. In addition, as this report shows that a portion of MDA funds were spent on brand advertising, we have classified this portion as indirect advertising and have allocated part of it to MPVs.

Mazda argues that the numbers on the report cannot be tied directly to its accounting records. We note that Mazda used a percentage of advertising related to MPVs generated from the same agency to report its direct advertising expense. The numbers used to derive that percentage also could not be tied directly into Mazda's accounting system. However, we accepted Mazda's methodology in that instance because it was a reasonable reflection of Mazda's advertising experience. Moreover, we are not using the absolute amount of the MDA expenditures shown on the report, merely the percentage. Therefore, the fact that the absolute number cannot be tied into Mazda's records is not controlling in this instance.

Comment 40

Petitioners argue that fees paid to Mazda's U.S. advertising agency should be classified as a direct expense because they are billed as a percentage of the advertising expense. Petitioners further contend that Mazda classified similar fees in the home market as direct and included them in home market advertising.

In addition, petitioners request that the Department adjust the amount of the fees allocated to MPVs to reflect the percent of MPV-related advertising to vehicle-specific advertising placed by the agency. According to petitioners, the methodology used by Mazda, relative sales value, is incorrect in that it relies on the assumption that advertising expenses are constant across not only all vehicle lines but also parts sales.

Mazda argues that its advertising agency fee is properly classified as indirect and that petitioners' argument is based on a misunderstanding of one of the verification exhibits. Mazda maintains that its advertising agency is not paid on a percentage basis but rather through an annually negotiated commission. According to Mazda, this commission covers the agency's provision of a variety of services in connection with advertising and marketing of MMA's products, including parts and services, as well as vehicles. Mazda further notes that the fee cannot be related to any particular product line, or even to the level of advertising activity. Finally, Mazda contends that its treatment of its U.S. advertising agency's fee is not inconsistent with its treatment of its home market advertising fees as the home market fees were paid on a different basis.

DOC Position

We agree with petitioners. Because these fees are incurred in order to advertise Mazda's products, it is appropriate to treat them in the same way that we are treating advertising expenses. Accordingly, we have split these fees into direct and indirect expenses in the same proportion as Mazda's overall advertising dollars are spent on direct and indirect advertising.

Comment 41

Petitioners claim that fees paid by Mazda to an outside service to administer various U.S. incentive programs are an integral part of the cost of the programs and should be included in specific per-vehicle incentive costs. Alternatively, petitioners state that these fees should be treated as a direct selling expense and allocated over all sales. In addition, petitioners contend that Mazda incorrectly allocated these fees to MPVs by using a value of sales methodology. Petitioners contend these fees should be reallocated based upon the level of incentives paid on MPVs relative to total incentive payments.

Mazda maintains that these expenses were correctly classified as indirect selling expenses. Mazda states that the unrelated company in question renders overall service as if it were an "extension" of MMA and that it is compensated for its services by payments that are based neither on the number or types of vehicles sold nor the number of incentive programs run, but rather for each task that it completes (*e.g.*, for generating computer tapes, etc.). Consequently, Mazda argues, it would be inappropriate to link these fees to specific incentive programs or to classify them as a direct expense.

DOC Position

We agree with petitioners. Because these fees are paid for each task performed by Mazda's incentive administration service, they are appropriately considered part of the vehicle-specific incentive costs. However, as there is insufficient information on the record to allow the Department to calculate a vehicle-specific amount, we have treated these fees as a direct selling expense and have applied them to all sales reported in Mazda's U.S. sales listing.

Comment 42

Petitioners contend that Mazda's direct and indirect selling expenses should be calculated as a percentage of net price, rather than gross price. Petitioners maintain that the inclusion of dealer contributions to MDAs in gross unit price has a distortive impact on the Department's analysis.

Mazda argues that it is appropriate to use gross unit price to calculate U.S. indirect selling expenses because the ratios used by Mazda to calculate indirect selling expenses for U.S. sales were derived from the MPV gross invoice total, which includes MDA contributions.

DOC Position

We agree with petitioners that calculating selling expense percentages using gross unit prices can be distortive. However, we have not recalculated the percentages reported by Mazda using net price because we do not have complete information on the record that would allow us to recalculate these percentages accurately. We note, however, that, as the MDA amounts included in Mazda's gross unit prices are small, excluding them from our calculation would have an insignificant effect on the margin. Accordingly, we have used the methodology reported by

Mazda for purposes of the final determination.

Comment 43

Mazda argues that the Department should accept its U.S. pre-delivery expenses as reported. Mazda contends that it demonstrated at verification that it had correctly reported these expenses.

DOC Position

We agree. Accordingly, we have used the data provided by Mazda for purposes of the final determination.

Comments 44

Mazda argues that it would be inappropriate to calculate an inventory carrying cost for the time that the vehicles bought back under its repurchase program are held in inventory. Mazda argues that the inventories in question are of used vehicles which are not subject to this investigation.

Petitioners maintain that the Department should impute an inventory carrying cost for these vehicles, as the cost is an integral part of the Mazda's repurchase program.

DOC Position

We agree with petitioners. We have imputed an inventory carrying cost for the vehicles in question, as this cost is incurred as a direct consequence of Mazda's repurchase program. In addition, we have imputed an inventory carrying gain for those vehicles which were auctioned before they were repurchased.

Comment 45

Petitioners contend that the Department should reclassify certain U.S. port charges, reported by Mazda as indirect selling expenses, as direct expenses. Petitioners argue that Mazda made no effort to demonstrate that the charges in question are related only to general selling activity. Petitioners note that Mazda treated similar vehicle preparation charges incurred in Japan as direct selling expenses. Therefore, petitioners maintain that these expenses should be reclassified as direct.

Mazda maintains that it correctly classified the U.S. port charges in question as indirect selling expenses. Mazda notes that it classified only fixed port charges as indirect selling expenses, as these expenses were incurred without regard to the number of vehicles sold or processed and were therefore not directly related to vehicle sales. Mazda further notes that it explained its reasons for classifying each specific component of these expenses as indirect in a number of submissions to the Department. Regarding petitioners' comment that Mazda treated similar vehicle-specific preparation expenses in the home market as direct selling expenses, Mazda states that this argument is not relevant because Mazda reported all variable port expenses as direct selling expenses in its U.S. sales listing.

DOC Position

We agree with Mazda that the U.S. port charges in question were correctly classified as indirect selling expenses, as these expenses did not vary with the number of vehicles sold. However, regarding home market preparation (or pre-delivery inspection) expenses, we agree with petitioners that the fixed portion of these expenses is analogous to the port charges classified by Mazda as an indirect selling expense. Consequently, we have reclassified the fixed portion of Mazda's home market pre-delivery inspection expenses as indirect.

Comment 46

Petitioners state that Mazda's cost verification report questions the validity of Mazda's parts costs and that, therefore, the Department should reject the profit adjustment taken on Mazda's warranty parts costs. Mazda contends that this argument is moot, as petitioners state in their cost brief that "the evidence in the record does not dictate a finding that transfer prices between Mazda and its related suppliers occur on other than an arm's length basis."

DOC Position

We disagree with petitioners. We have made no adjustment to the reported costs since, as petitioners mentioned, there is no indication that the transactions in question were anything other than arm's length in nature.

Comment 47

Petitioners argue that Mazda understated its calculation of U.S. indirect selling expenses by improperly excluding parts expenses, a portion of which petitioners claim are related to minivan sales. Petitioners state that the burden of demonstrating which of the parts costs incurred by Mazda are MPV-related and which are not is on Mazda. Petitioners state that, if Mazda cannot supply the necessary data, a sales-based allocation of the excluded costs should be added to Mazda's indirect selling expenses calculation.

Mazda argues that it correctly included those U.S. parts expenses related to minivan sales in its U.S. indirect selling expense calculation. Specifically, Mazda states that it included those parts expenses identified in its books and records as being related to the movement and sale of vehicles. In addition, Mazda states that its warranty calculations fully account for the costs of the parts used in warranty repair. Finally, Mazda states that it properly excluded from its calculations those parts expenses associated with repair parts sales and distribution, as these expenses are irrelevant to Mazda's cost of selling new vehicles.

DOC Position

We agree with Mazda. In its calculation of U.S. indirect selling expenses, Mazda properly included expenses of parts related to the sale of new vehicles. Consequently, we find no basis for adjusting Mazda's U.S. indirect selling expenses as requested by petitioners.

Comment 48

Petitioners contend that Mazda incorrectly excluded an interest penalty related to taxes from its calculation of U.S. indirect selling expense. Petitioners state that the fact that the taxes were due in a preceding year does not transform the interest payment into something other than a period expense. In addition, petitioners contend that the fact that the interest rate charged on the penalty was high does not distinguish this interest payment from any other interest payment during the POI on loans taken out before the period.

Mazda states that this payment was correctly excluded from its calculation of U.S. indirect selling expenses. Mazda notes that the Department routinely excludes income taxes from its calculation of SG&A, even though they are period expenses. Mazda maintains that, if taxes are not considered an appropriate element of selling expenses, it would be illogical to include interest payments made on taxes payable with respect to a prior delayed tax payment. Moreover, Mazda argues that this delayed tax payment can also be properly viewed as an extraordinary expense, as it was unusual in nature and infrequent in occurrence.

DOC Position

We agree with Mazda. It is irrelevant whether this interest penalty is related to a prior tax payment or whether this interest was paid on another type of debt obligation, since it is the Department's practice to exclude all types of interest expenses from the calculation of SG&A. Because the Department imputes credit expense on individual sales, the inclusion of these

expenses in indirect selling expenses would double-count a company's cost of borrowing. Consequently, we find that Mazda properly excluded this payment from its calculation of indirect selling expenses.

Comment 49

Petitioners contend that Mazda improperly excluded certain promotional expenses from its calculation of U.S. indirect selling expenses. Petitioners state that the primary purpose of Mazda's participation in these promotional activities was to promote Mazda's corporate image and thereby affect indirectly the sale of its products, including MPVs. Petitioners also contend that Mazda improperly excluded certain expenses related to non-subject merchandise from its calculation of U.S. indirect selling expenses.

Mazda contends that the promotional expenses referenced by petitioners were properly excluded from its calculations, as these expenses are not incurred in connection with programs targeted to the promotion of MPVs. Rather, Mazda argues, these programs are targeted at purchasers of other products produced by Mazda. Mazda contends that it included in indirect selling expenses those expenses related to programs which highlight the MPV as well as programs which are designed to promote Mazda's brand image. Mazda contends that the programs in question do neither.

Regarding petitioners' second argument, Mazda contends that these expenses were properly excluded, as they are irrelevant to the sale of MPVs. Mazda contends that it is axiomatic that only those expenses which are directly or indirectly related to the sales of the product under investigation may be properly included in the Department's adjustments to price. Mazda argues that it would be unreasonable for the Department to expect U.S. MPV pricing to reflect the costs at issue. Moreover, Mazda contends that there is no legal basis for suggesting that such an approach would be appropriate. Consequently, Mazda contends that petitioners' argument should be rejected.

DOC Position

We agree with Mazda. Regarding the promotional expenses in question, we have reviewed the documents obtained at verification and found that the relevant programs were not targeted at, and logically did not encompass, MPVs. Accordingly, we have determined that Mazda appropriately excluded these expenses from its calculation of U.S. indirect selling expenses.

Regarding petitioners' second comment, this issue was raised in petitioners' case brief for the first time in this proceeding. As there is no information on the record of this investigation regarding the expenses referenced by petitioners, we have no basis either to evaluate petitioners' argument or to make the adjustment requested by petitioners.

Comment 50

Petitioners ask the Department to (1) ensure that the refunds of U.S. customs duty reported by Mazda do not exceed 2.5 percent of the value of the excluded costs and (2) ensure that all MPVs that entered the United States during the POI as "trucks" are assessed the applicable 25 percent duty.

Mazda affirms that it correctly reported the U.S. customs duty on U.S. imports of MPVs.

DOC Position

At verification, we examined Mazda's calculations of U.S. customs duties and duty refunds and found that these adjustments had been correctly reported. Consequently, no further adjustments are necessary.

Comment 51

Petitioners argue that Mazda's U.S. sales verification report indicates that Mazda attempted systematically to overstate its U.S. prices by understating the U.S. brokerage, harbor maintenance fees, and merchandise processing fees on three of the five sales examined at verification. Petitioners contend that the Department should increase these movement charges for all vehicles in the U.S. sales listing by the amount of understatement found at verification.

Mazda contends that the discrepancies noted at verification were minor. In addition, Mazda states that one of the "errors" cited by petitioners had been corrected in a pre-verification submission to the Department. Mazda argues that the fact that the Department found only one discrepancy should in itself be evidence of the high level of reliability of Mazda's sales data. Thus, Mazda argues, petitioners' request should be rejected.

DOC Position

We agree with Mazda. The errors found at verification with respect to these movement charges were minor and clerical in nature. Contrary to petitioners' assertion, we found no evidence of systematic understatement of these charges.

Consequently, we have used the amounts reported by Mazda for purposes of the final determination, revised to correct for clerical errors found at verification.

Comment 52

According to Mazda, the U.S. sales verification report notes that MMA was unable to demonstrate that an item in its fleet goodwill account was reported in Mazda's U.S. sales listing. Mazda contends that all expenses in the fleet goodwill account were appropriately reported by Mazda as part of its SG&A and, consequently, it would not have been possible to tie this expense to an individual sale in the sales listing. Thus, Mazda argues, this cost was properly reported.

DOC Position

We agree that this cost is properly included in SG&A. Accordingly, we have made no adjustment to the expenses in question for purposes of the final determination.

Comment 53

Mazda contends that it correctly calculated U.S. installation charges for single air conditioners as the weighted-average installation cost at each port. Mazda contends that the fact that these charges were calculated as a weighted-average is accurate in that it is not materially different from the results of reporting on a port-specific basis. In addition, Mazda contends that it is appropriate to report a weighted-average cost because Mazda does not price single air conditioners to its dealers based on the port of installation.

DOC Position

The Department's preference is for actual costs calculated on a vehicle-specific basis, rather than average costs. Accordingly, we have recalculated these costs on a port-specific basis for purposes of the final determination because it is more accurate to do so.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of new minivans from Japan subject to this investigation which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until

further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Mazda Motor Corporation and Mazda Motor of America, Inc	12.70
Toyota Motor Corporation and Toyota Motor Sales, U.S.A., Inc	6.75
All Others	9.88

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also serves as the only remainder to parties subject to administrative protective order (APO) of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)), and 19 CFR 353.20.

Dated: May 18, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-12222 Filed 5-22-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-508-605]

Industrial Phosphoric Acid From Israel; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on industrial phosphoric acid from Israel. We preliminarily determine the net subsidy to be 12.11 percent *ad valorem* for all firms during the period January 1, 1990 through December 31, 1990. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Cameron Cardozo or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 21, 1991, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (56 FR 41506) of the countervailing duty order on industrial phosphoric acid from Israel (52 FR 31057; August 19, 1987). On August 27, 1991, the petitioners, FMC Corporation and the Monsanto Company, requested that we conduct an administrative review of the order for the period January 1, 1990 through December 31, 1990. On August 30, 1991, the respondent, Negev Phosphates Ltd., requested that we conduct an administrative review of the order for the same period. We initiated the review on September 18, 1991 (56 FR 47185). The Department has now conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). The final results of the last administrative review of this order were published in the **Federal Register** on October 9, 1991 (56 FR 50854).

Scope of Review

Imports covered by this review are shipments of Israeli industrial phosphoric acid (IPA). This merchandise is classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1990 through December 31, 1990, and nine programs. Negev Phosphates, Ltd. (NPL) is the only known producer of the subject merchandise from Israel exporting to the United States during the review period.

Analysis of Programs

(1) Encouragement of Capital Investments Law (ECIL) Grants

The ECIL grants program was established to attract capital to Israel. In order to be eligible to receive various benefits under the ECIL, including investment grants, drawback grants, capital grants, accelerated depreciation, and reduced tax rates, the applicant must obtain approved enterprise status.

Approved enterprise status is obtained after review of information submitted to the Israeli Ministry of Industry and Trade, Investment Center Division. The amount of the grant benefits received by approved enterprises depends on the geographic location of the eligible enterprise. For purposes of the ECIL program, Israel is divided into three zones—Development Zone A, Development Zone B, and the Central Zone—each with a different funding level.

Since 1978, only investment projects outside the Central Zone have been eligible to receive grants. The Central Zone comprises the geographic center of Israel, including its largest and most developed population centers. Because the grants are limited to enterprises located in specific regions, we determine that they constitute countervailable subsidies within the meaning of the Act.

NPL is located in Development Zone A, and received ECIL investment, drawback, and capital grants in disbursements over a period of years for several projects. All but five of the funded projects were located at its Oron plant and were unrelated to IPA production. We did not include ECIL grants to this location in our calculations. There were five projects related to IPA production, three of which applied directly to NPL's IPA production, facility and two of which applied to the phosphate rock processing plants at Arad and Zin, which produce an input for IPA. Grants for these projects made from 1981 through 1990 resulted in benefits during the period under review. To determine the amount of the Arad and Zin grants applicable to IPA production, the Department first calculated the subsidies to the Arad and Zin facilities per unit of output of rock (by volume) and weighted these amounts by the percentages of Arad and Zin rock out of total rock used in IPA production. The Arad and Zin weighted subsidies were then added to obtain a total weighted subsidy per metric ton of rock. We multiplied this amount by the number of metric tons of rock needed to produce one metric ton of IPA. We then multiplied the subsidy on one metric ton of IPA by the total quantity of IPA sales to get a total subsidy, which we divided by the total value of all sales of IPA. The Department used only the grant value related to IPA production in the calculation of the benefit.

To calculate the benefit, we allocated these grants over ten years (the average useful life of assets in the chemical manufacturing industry, as determined under the U.S. Internal Revenue Service Asset Depreciation Range System). To allocate benefits over time, we typically use as our discount rate the cost of the firm's long-term fixed-rate debt for the year in which the terms of the grant were approved. However, because NPL

had no significant fixed-rate long-term debt, we used the rate for long-term industrial development loans, adjusted for inflation, as the discount rate for grants received in the years 1981–1987. Because these rates were unavailable for 1988–1990, we used the rate for government indexed five-year bonds in Israel, adjusted for inflation, from the Bank of Israel's Annual Report for 1990, as the discount rate for grants received from 1988 through 1990. We used a declining balance formula to determine the benefit stream for the relevant grants.

We allocated the benefits attributable to the review period over the value of NPL's total IPA sales during the review period. On this basis, we preliminarily determine the benefit from this program to be 2.69 percent *ad valorem* during the 1990 review period.

(2) Long-term Industrial Development Loans

Prior to July 1985, approved enterprises were eligible to receive long-term industrial development loans funded by the Government of Israel. During our investigation, we verified that these loans, like the ECIL grants, were project-specific. They were disbursed through the Industrial Development Bank of Israel (IDBI) and other industrial development banks which no longer exist.

The long-term industrial development loans were provided to a diverse number of industries, including agricultural, chemical, mining, machine, and others. However, the interest rates on loans vary depending on the Development Zone location of the borrower. The interest rates on loans to borrowers in Development Zone A are lowest, while those on loans to borrowers in the Central Zone are highest. Therefore, loans to companies in Zones A and B are at preferential terms relative to loans received by companies in the heavily populated and developed Central Zone. Because preferential terms are limited to companies located in certain regions, we determine that these loans are countervailable.

NPL had loans outstanding under this program during the review period for projects at two of its plants, one of which is unrelated to IPA production and one of which is the phosphate rock processing facility in Arad which produces an input for IPA. The loans provided for the rock processing facility carry the Zone A interest rates because of NPL's location. Therefore, we determine that NPL received countervailable benefits under this program because the interest rates charged NPL are less than those which would apply in the Central Zone.

The loans under this program have variable interest rates linked to changes in the dollar-shekel exchange rate. Therefore, we cannot calculate the present value of the interest savings, nor is there a single discount rate for allocating the benefits over time, as under our normal long-term loan methodology. Accordingly, we have compared the interest that would have been paid on a variable-rate benchmark loan (i.e., a loan available to firms in the Central Zone) to the interest paid on the preferential loan during the review period. To determine the amount of the Arad loans applicable to IPA production, the Department first calculated the subsidy to the Arad facility per unit of output of rock (by volume) and weighted this amount by the percentage of Arad rock out of the total rock used in IPA production. We multiplied this amount by the number of metric tons of rock needed to produce one metric ton of IPA. We then multiplied the subsidy on one ton of IPA by the total quantity of IPA sales to get a total subsidy, which we divided by the total value of all sales of IPA. On this basis, we preliminarily determine the benefit from this program to be 0.01 percent *ad valorem* during the 1990 review period.

(3) Exchange Rate Risk Insurance Scheme

The Exchange Rate Risk Insurance Scheme (EIS), operated by the Israel Foreign Trade Risk Insurance Corporation Ltd. (IFTRIC), is aimed at insuring exporters against losses which result when the rate of inflation exceeds the rate of devaluation and the new Israeli Shekel (NIS) value of an exporter's foreign currency receivable does not rise enough to cover increases in local costs.

The EIS scheme is optional and open to any exporter willing to pay a premium to IFTRIC. Compensation is based on a comparison of the change in the rate of devaluation of the NIS against a basket of foreign currencies with the change in the consumer price index. If the rate of inflation is greater than the rate of devaluation, the exporter is compensated by an amount equal to the difference between these two rates multiplied by the value-added of the exports. If the rate of devaluation is higher than the change in the domestic price index, however, the exporter must compensate IFTRIC. The premium is calculated for all participants as a percentage of the value-added sales value of exports. IFTRIC changes this percentage rate periodically, but at any given time it is the same for all exporters.

In determining whether an export insurance program provides a countervailable benefit, we examine whether the premiums and other charges are adequate to cover the program's long-term operating costs and losses. In our Final Results of Countervailing Duty Administrative Review; Oil Country Tubular Goods from Israel (55 FR 46703; November 6, 1990) and Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers from Israel (52 FR 3316; February 3, 1987), we found that this program conferred a counteravailable benefit on manufacturers, producers, or exporters in Israel of oil country tubular goods and flowers. In both those cases, we reviewed EIS data which showed that EIS operated at a loss from 1981 through 1987. We believe that seven years, in this case, is a sufficiently long period to establish that the premiums and other charges are manifestly inadequate to cover the long term operating costs and losses of the program. Therefore, despite periodic increases in the premium rate, we determine that this program confers an export subsidy on exports of IPA from Israel.

In calculating the benefit, we have taken into account the special features of this program. Under a typical insurance scheme, the users pay premiums and then receive a payment if the event being insured against occurs. Under the Exchange Rate Risk Insurance Scheme, on the other hand, the user receives a payment if the inflation rate exceeds the depreciation rate or makes an additional payment if the depreciation rate exceeds the inflation rate. Since the program has been in place, payments received by users have exceeded the payments they have made to the scheme. Thus, users of the scheme have virtually no risk of incurring additional payment costs, and the "premiums" serve only as a fee to obtain payment from the scheme. Therefore, we have calculated the benefit by allocating the amount of compensation NPL received during the review period from IFTRIC expressly for IPA exported to the United States, after deducting premiums paid, over the value of the company's exports of IPA to the United States during the review period. On this basis, we preliminarily determine the benefit from this program to be 9.40 percent *ad valorem* during the 1990 review period.

(4) Encouragement of Industrial Research and Development Grants (EIRD)

NPL has received grants under this program, one of which, the Zohar rock phosphate research project, was indirectly related to the production of IPA. Since we verified in the original investigation that the results of research funded by EIRD grants are not made publicly available, we determine these grants to be countervailable. This EIRD grant, issued to NPL on September 16, 1990, could benefit the production of IPA, as the grant benefited a research project concerning the development of a process for quarrying and beneficiation of rock phosphates. This research will benefit the gathering of raw materials (inputs) required to produce IPA. We expensed the full amount of the grant for the Zohar rock phosphate research project to 1990 and divided by NPL's total sales of all products. On this basis, we preliminarily determine the benefit from this program to be 0.01 percent *ad valorem*.

(5) Other Programs

We also examined the following programs and preliminarily determine that exporters of industrial phosphoric acid did not use them during the review period:

(A) Reduced tax rates under ECIL;
(B) ECIL section 24 loans;
(C) Preferential accelerated depreciation under ECIL;
(D) Labor training grants; and
(E) Dividends and Interest Tax Benefits under Section 46 of the ECIL.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be 12.11 percent *ad valorem* for Negev Phosphates, Ltd. during the period January 1, 1990 through December 31, 1990. The Department intends to instruct the Customs Service to assess countervailing duties of 12.11 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after January 1, 1990 and on or before December 31, 1990.

Further, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Act, of 12.11 percent of the f.o.b. invoice price on all shipments of the subject merchandise from Israel entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculations methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case briefs. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38(c), are due.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: May 15, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-12213 Filed 5-22-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-357-404, C-549-401, C-301-401, C-333-402, C-542-401]

Certain Textile Mill Products From Argentina; Certain Textile Mill Products From Thailand; and Certain Textile Mill Products and Apparel From Colombia, Peru, and Sri Lanka; Court Decision and Suspension of Liquidation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Court Decision and Suspension of Liquidation.

SUMMARY: On March 24, 1992, the United States Court of International Trade (CIT) reversed the Department of Commerce (Commerce) decision in the above-referenced matters and held that a domestic interested party had properly objected to Commerce's intent to terminate the suspended countervailing duty investigations involving certain textile mill products from Thailand and certain textile mill products and apparel from Colombia, and to revoke countervailing duty orders in the textile case from Argentina and the textile mill products and apparel cases from Peru and Sri Lanka. In accordance with that decision, on May 7, 1992, the CIT ordered Commerce to rescind the terminations and revocations in the textile and apparel cases, and reinstate the related suspended investigations and countervailing duty orders.

In accordance with the decision of the Court of Appeals for the Federal Circuit (CAFC) in *The Timken Company* v. *United States*, Slip Op. 89-1489 (January 4, 1990), Commerce with direct the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from Argentina, Peru, and Sri Lanka entered, or withdrawn from warehouse, for consumption on or after May 18, 1992.

EFFECTIVE DATE: May 18, 1992.

FOR FURTHER INFORMATION CONTACT: Robert A. Bolling, Office of Agreements Compliance, or Lorenza Olivas, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3793 or 377-2786, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1990, Commerce revoked the countervailing duty orders concerning Certain Textile Mill Products from Argentina and Certain Textile Mill Products and Apparel from Peru, and Sri Lanka (55 FR 32940-42). On that same date, Commerce terminated the suspended countervailing duty investigation on Certain Textile Mill Products and Apparel from Colombia (55 FR 32940). On November 23, 1990, Commerce terminated in part the suspended countervailing duty investigation on Certain Textile Mill Products from Thailand (55 FR 48885).

Subsequent to publication of Commerce's revocations and terminations, ten domestic producers of textile products and the American Textile Manufacturing Institute (ATMI) filed a lawsuit with the CIT challenging Commerce's revocations and terminations. On March 24, 1992, the CIT issued a decision (*Belton Industries, Inc., et al.* v. *United States*, Slip Op. 92-39), and on May 7, 1992, issued its judgment in the matter, directing Commerce to rescind the terminations and revocations in the textile and apparel cases and reinstate the related suspended investigations and

countervailing duty orders. The CIT's March 24, 1992, decision became the final CIT decision in this litigation upon issuance of its judgment on May 7, 1992.

Suspension of Liquidation

In its decision in *The Timken Company* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990), the CAFC held that Commerce must publish notice of a final decision of the CIT or the CAFC which is not in harmony with Commerce's determination. Publication of this notice fulfills that obligation. The CAFC also held that in such a case Commerce must suspend liquidation until there is a "conclusive" decision in the action. Therefore, Commerce must suspend liquidation pending the expiration of the period to appeal the CIT's order of May 7, 1992, or pending a final decision of the CAFC if that order is appealed.

Because entries of the subject merchandise were not suspended previously under the suspended countervailing duty investigations involving Certain Certain Textile Mill Products from Thailand and Certain Textile Mill Products and Apparel from Colombia, Commerce need not order Customs to suspend liquidation in those matters. Commerce has ordered Customs to suspend liquidation of entries of the subject merchandise in Certain Textile Mill Products from Argentina and Certain Textile Mill Products and Apparel from Peru, and Sri Lanka at 0.00 percent, effective May 18, 1992. Commerce will not order the lifting of the suspension of liquidation of entries entered or withdrawn from warehouse for consumption on or after May 18, 1992, prior to a conclusive court decision in this lawsuit.

Dated: May 18, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-12211 Filed 5-22-92; 8:45 am]

BILLING CODE 3510-DS-M

Vanderbilt School of Medicine, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 91-112R. *Applicant:* Vanderbilt School of Medicine, Nashville, TN 37232-2250. *Instrument:* Micromanipulator, Model MK 1. *Manufacturer:* Singer Instrument Co., Ltd., United Kingdom. *Intended Use:* See notice at 56 FR 41120, August 19, 1991. *Reasons:* The foreign instrument provides prompt rotational and linear response to direct hand movements scaled down by a factor of four. *Advice Submitted By:* National Institutes of Health, April 21, 1992.

Docket Number: 92-005. *Applicant:* Rutgers University, Piscataway, NJ 08855-1059. *Instrument:* (4) Micromanipulators and Micro Electrode Fabrication. *Manufacturer:* Narishige Scientific Instrument Lab, Japan. *Intended use:* See notice at 57 FR 6000, February 19, 1992. *Reasons:* The foreign instrument provides highly reproducible production of microelectrodes with a tip diameter down to 0.1 μm that is compatible with a remotely controlled micromanipulator. *Advice Submitted By:* National Institutes of Health, April 21, 1992.

Docket Number: 92-004. *Applicant:* Vanderbilt University, Nashville, TN 37232-6802. *Instrument:* Mass Spectrometer, CONCEPT 4H. *Manufacturer:* Kratos Instruments, United Kingdom. *Intended Use:* See notice at 57 FR 6000, February 19, 1992. *Reasons:* The foreign instrument provides: (1) Double-focussing, 4-sector tandem operation, (2) mass range to 10 000 at 8 keV, (3) resolution to 150 000 and an array detector. *Advice Submitted By:* National Institutes of Health, April 21, 1992.

Docket Number: 92-012. *Applicant:* Howard Hughes Medical Institutes, New York, NY 10003. *Instrument:* Special Purpose Manipulator, Model MK2. *Manufacturer:* A.J. Neuro-Institute, United Kingdom. *Intended Use:* See notice at 57 FR 7368, March 2, 1992. *Reasons:* The foreign instrument provides precise control of the animal without eye obstruction and easy head access for surgery. *Advice Submitted By:* National Institute of Health, April 21, 1992.

Docket Number: 92-014. *Applicant:* SUNY-State College of Optometry, New York, NY 10010. *Instrument:* Infrared Autorefractor, Model R-1. *Manufacturer:* Canon, Japan. *Intended Use:* See notice at 57 FR 7369, March 2, 1992. *Reason:* The foreign instrument provides an infrared autorefractor, usable in a normally illuminated room, with a measurable range of: sphere ±15 diopters (D), cylinder ±7 D. *Advice Submitted By:* National Institutes of Health, April 21, 1992.

Docket Number: 92-020. *Applicant:* The University of Vermont, Burlington, VT 05405. *Instrument:* Xenon Flashlamp System, Model XF-10. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* See notice at 57 FR 9107, March 16, 1992. *Reasons:* The foreign instrument provides: (1) Stored energy of 10 to 340J, (2) repetition rate of 0.1 to 10.0 Hz and (3) optimized wavelength to activate muscle cells in vitro. *Advice Submitted By:* National Institutes of Health, April 21, 1992.

Docket Number: 92-023. *Applicant:* Wayne State University, Detroit, MI 48202. *Instrument:* Kinetic Spectrometer, Model LKS.50. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* See notice at 57 FR 9107, March 16, 1992. *Reasons:* The foreign instrument provides 8 nanosecond laser excitation for producing transient, short-lived species and a high intensity analysis light source. *Advice Submitted By:* National Institutes of Health, April 21, 1992.

The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-12212 Filed 5-22-92; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

[Docket No. 91-0934-2089]

RIN 0693-AA93

Second Solicitation of Comments on Proposed Revision of Federal Information Processing Standard (FIPS) 128, Computer Graphics Metafile (CGM)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: A revision to Federal Information Processing Standard (FIPS) 128, Computer Graphics Metafile (CGM),

is proposed for Federal agency use. This proposed FIPS was initially sent to all Federal agencies for review, and was announced in the **Federal Register** (56 FR 59928) on November 26, 1991. The proposed FIPS has been updated to reflect the latest versions of the ANSI/ISO standard and the military specification.

This revision modifies the standard in two ways. First, this revision adopts the redesignated version of the CGM standard, which is a joint ANSI and ISO standard, ANSI/ISO 8632.1–4:1992. Originally, FIPS 128 adopted just the ANSI standard. The ANSI and ISO documents differed only in style and layout, not content. Second, this revision modifies FIPS 128 by adding a requirement for the use of CGM profiles. A profile of CGM defines the options, elements, and parameters of ANSI/ISO 8632 necessary to accomplish a particular function and to maximize the probability of interchange between systems implementing the profile.

In particular, this revision to FIPS 128 adopts the first such profile as a requirement, namely the military specification MIL–D–28003A, November 15, 1991, more commonly known as the CALS (Computer-aided Acquisition and Logistics Support) CGM Application Profile. While developed specifically for the Department of Defense, this profile is applicable for use by other Federal agencies as well as when the representation or graphics information in digital form is to be used in technical illustrations and/or technical publications.

Prior to the submission of this proposed revision to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

The proposed revision contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. The specifications section has two parts: (a) ANSI/ISO 8632.1–4:1992, Computer Graphics Metafile, defining the scope of the specifications, the syntax and semantics of the CGM elements and requirements for a conforming implementation; and (b) MIL–D–28003A, defining the first Application Profile of FIPS 128. Only the announcement section of the standard is provided in this notice. Interested parties may obtain copies of ANSI/ISO 8632.1–4:1992 from the American National Standards Institute, 11 West 42d Street, 13th Floor, New York, NY 10036, (212) 642–4900. Copies of MIL–D–28003A may be obtained from the Naval Publications and Forms Center, Standardization Documents Order Desk, Building 4D, 700 Robbins Avenue, Philadelphia, PA 19111–5094, (215) 697–3321.

DATES: Comments on this proposed revision must be received or before July 10, 1992.

ADDRESSES: Written comments concerning the proposed revision should be sent to: Director, Computer Systems Laboratory, ATTN: Revision of FIPS 128, Technology Building, room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel R. Benigni, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–3266.

Dated: May 18, 1992.

John W. Lyons,

Director.

Federal Information Processing Standards Publication 128–1

Announcing the Standard for Computer Graphics Metafile (CGM)

(Date)

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administration Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

1. *Name of Standard.* Computer Graphics Metafile (CGM) (FIPS PUB 128–1).

2. *Category of Standard.* Software Standard, Graphics.

3. *Explanation.* This publication is a revision of FIPS PUB 128. This revision supersedes FIPS PUB 128 and modifies the standard by:

(1) Adopting the redesignated version of the CGM standard, known as ANSI/ISO 8632.1–4:1992;

(2) Adding a requirement for the use of profiles. A profile defines the options, elements, and parameters of ANSI/ISO 8632 necessary to accomplish a particular function and to maximize the probability of interchange between systems implementing the profile; and

(3) Adopting the first such profile as a requirement, namely the military specification MIL–D–28003A, November 15, 1991, more commonly known as the CALS (Computer-aided Acquisition and Logistics Support) CGM Application Profile.

This publication announces adoption of American National Standards Institute/International Organization for Standardization (ANSI/ISO) Computer Graphics Metafile (CGM), ANSI/ISO 8632.1–4:1992 which consists of two parts identified in the Specifications section, as a Federal Information Processing Standard (FIPS). ANSI/ISO 8632 is a graphics data interface standard which specifies a file format suitable for the description, storage, and communication of graphical (pictorial) information in a device independent manner. The purpose of the standard is to facilitate the transfer of graphical information between different graphical software systems, different graphical devices, and different computer graphics installations. However, ANSI/ISO 8632 is not completely specified, nor do all implementations contain all possible options, elements, and parameters. The purpose of the MIL-D-28003A CGM profile is to enable its users to ensure predictable interchange results and interworking of machines, sites, and applications by rigorously defining and adhering to the same subset of ANSI/ISO 8632. Since a proliferation of CGM profiles is not desirable, only those future profiles deemed necessary to satisfy Federal user requirements not met by MIL-D-28003A will be added by revision to this standard.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Institute of Standards and Technology (NIST), Computer Systems Laboratory (CSL).

6. *Cross Index.*

a. American National Standard/International Organization for Standardization (ANSI/ISO) Computer Graphics Metafile (CGM), ANSI/ISO 8632.1–4:1992.

b. Military Specification, Digital Representation of Illustration Data: CGM Application Profile, MIL-D-28003A, November 15, 1991.

7. *Related Documents.*

a. Federal Information Processing Standards Publication (FIPS PUB) 120–1, Graphical Kernel System (GKS).

b. Federal Information Resources Management Regulations 201–20.303, Standards, and subpart 201–39.1002, Federal Standards.

c. American National Standard Graphical Kernel System, GKS, ANSI X3.124.1–3–1985.

d. ISO 646–1983, Information Processing—7-Bit Coded Character Set for Information Interchange.

e. ISO 2022–1986, Information Processing—ISO 7-Bit and 8-Bit Coded Character Sets—Code Extension Techniques.

f. ISO 2375–1987, Data Processing—Procedure for Registration of Escape Sequences.

g. ISO 7942–1985, Information Processing Systems—Computer Graphics—Graphical Kernel System (GKS).

h. ISO 6429–1988, Information Processing—Control Functions for 7-Bit and 8-Bit Coded Character Sets.

i. ANSI/ISO 8632.1–4:1992, Information Processing Systems—Computer Graphics Metafile (Part 1: Functional Specifications; Part 2: Character Encoding; Part 3: Binary Encoding; Part 4: Clear Text Encoding).

8. *Objectives.* The primary objectives of this standard are:

—To allow the portability of graphics data among different graphics installations and devices. This encourages a uniform interface for noninteractive picture description.

—To promote the exchange of graphic information enabling installations to share data and reduce time spent recomputing in efforts to regenerate graphics data.

—To promote the use of a standard set of elements using standard terminology, which aids graphics programmers in using graphics methods.

9. *Applicability.*

a. This standard is for use in computer graphics applications that are either developed or acquired for government use. Although not developed specifically for the Printing/Graphics Arts industry, this standard may be used in printing and graphics art applications whenever desirable.

b. The use of this standard is strongly recommended when one or more of the following situations exist:

—A graphics metafile is maintained at a central facility for a decentralized system that employs graphics devices of different makes and models that must utilize the data.

—A graphics metafile is required to preserve picture data when conversion or migration from one graphics system to another is necessary and the two systems are not necessarily compatible.

—A graphics metafile is intended for information interchange between a source system and a target system that are not necessarily compatible.

c. Nonstandard features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although nonstandard features can be very useful, it should be recognized that the use of these or any other nonstandard elements may make the interchange of graphics picture data and future conversion more difficult and costly.

d. The use of profiles is strongly recommended in applications where it is vitally important to ensure predictable results between machines, sites and applications. They are defined by application constituencies who agree to adhere to the same subset of CGM. The first profile added herein by this revision is recommended for Department of Defense applications as well as other Federal government applications when the representation of graphics information in digital form is for use in technical illustrations and/or technical publications. In addition, this profile is recommended for satisfying Federal agencies' specifications when the use of a general-purpose, graphical interchange mechanism is required.

10. *Specifications.* ANSI/ISO 8632.1–4:1992, Computer Graphics Metafile, defines the scope of the specifications, the syntax and semantics of the CGM elements and requirements for a conforming implementation. The ANSI/ISO 8632 consists of four parts: (Part 1: Functional Specifications; Part 2: Character and Coding; Part 3: Binding and Coding; Part 4: Clear Text Encoding). In addition, MIL–D–28003A, the Military Specification for the Digital Representation of Illustration Data: CGM Application Profile, establishes the requirements to be met when two-dimensional picture description or illustration data that is vector or mixed vector and raster is delivered in the digital format of FIPS PUB 128–1.

11. *Implementation.* The implementation of this standard involves two areas of consideration: acquisition of CGM implementations and interpretations of the standard.

11.1 *Acquisition of CGM Implementations.* This revised standard becomes effective six (6) months after the publication in the **Federal Register** announcing approval of the revised standard by the Secretary of Commerce. The use of the Application Profile added as a result of this revision has a delayed effective date of twelve (12) months after the publication in the **Federal Register** announcing approval of the revised standard by the Secretary of Commerce.

11.2 *Interpretation of FIPS CGM.* Resolution of questions regarding this standard will be provided by NIST. Questions concerning the content and specifications should be addressed to: Director, Computer Systems Laboratory, ATTN: CGM Interpretation, National Institute of Standards and Technology, Gaithersburg, MD 20899.

12. *Waivers.*

Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, Technology Building, room B–154; Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register**.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

[FR Doc. 92–12104 Filed 5–22–92; 8:45 am]
BILLING CODE 3510–CN–M

[Docket No. 92–0487–2087]

RIN No. 0693–AB00

Proposed Revision of Federal Information Processing Standard (FIPS) 125, MUMPS (Massachusetts General Hospital Utility Multi-Programming System)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; Request for comments.

SUMMARY: A revision to Federal Information Processing Standard (FIPS), 125, MUMPS, is being proposed. This revision adopts American National Standard for MUMPS, ANSI/MDC X11.1–1990. The American National Standard for MUMPS specifies the form and establishes the interpretation of programs written in the MUMPS programming language.

Prior to the submission of this proposed revision to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed revision contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section. Only the announcement section of the standard is provided in this notice. Interested parties may obtain copies of the specifications (ANSI/MDC X11.1–1990)

from American National Standards Institute (ANSI), 11 West 42nd Street, 13th Floor, New York, NY 10036, (212) 642–4900.

DATES: Comments on this proposed revision must be received on or before August 24, 1992.

ADDRESSES: Written comments concerning the proposed revision should be sent to: Director, Computer Systems Laboratory, ATTN: Revision of FIPS 125, Technology Building, room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Dashiell, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–2490.

Dated: May 19, 1992.

John W. Lyons,

Director.

Proposed Federal Information Processing Standards Publication 125–1 (Supersedes FIPS PUB 125—1986 November 4) (Date)

Announcing the Standard for MUMPS (Massachusetts General Hospital Utility Multi-Programming System)

Federal Information Processing Standards Publication (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949, as amended by the Computer Security Act of 1987, Public Law 100–235.

1. *Name of Standard.* MUMPS (FIPS PUB 125–1).

2. *Category of Standard.* Software Standard, Programming Language.

3. *Explanation.* This publication announces the adoption of American National Standard for MUMPS, ANSI/MDC X11.1–1990, as a Federal Information Processing Standard (FIPS). This standard supersedes FIPS PUB 125 in its entirety. The American National Standard for MUMPS specifies the form and establishes the interpretation of programs written in the MUMPS programming language. The purpose of the standard is to promote portability of MUMPS programs for use on a variety of data processing systems. The standard is for use by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors; and by other computer professionals who need to know the precise syntactic and semantic rules adopted by ANSI.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Institute of Standards and Technology (Computer Systems Laboratory).

6. *Cross Index.* American National Standard for Information System—Programming Languages—MUMPS, ANSI/MDC X11.1–1990.

7. *Related Documents.**

a. Federal Information Resources Management Regulations subpart 201–20.303, Standards, and subpart 201–39.1002, Federal Standards.

b. Federal Information Processing Standards (FIPS) Publication 29–2, Interpretation Procedures for Federal Information Processing Standards for Software.

c. NBS Special Publication 500–117, Selection and Use of General-Purpose Programming Languages.

8. *Objectives.* Federal standards for high level programming languages permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal programming language standards are:

—To encourage more effective utilization and management of programmers by ensuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;

—To reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;

—To reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems; and

—To protect the existing software assets of the Federal Government by ensuring to the maximal feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. *Applicability.*

a. Federal standards for high level programming languages are applicable for computer applications and programs that are either developed or acquired for government use. FIPS MUMPS is one of the high level programming language standards provided for use by all Federal departments and agencies. FIPS MUMPS is suitable for the following applications:

—Those involving the creation and manipulation of string-oriented or test-oriented, hierarchically organized collections of data;

—Those requiring interactive data management;

—Those traditionally, but not exclusively, in medical, health-service and related administrative systems.

b. The use of FIPS high level programming languages applies when one or more of the following situations exist:

—It is anticipated that the life of the program will be longer than the life of the presently utilized equipment.

—The application or program is under constant review for updating of the specifications, and changes may result frequently.

—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models and configurations.

—The program will or might be run on equipment other than that for which the program is initially written.

—The program is to be understood and maintained by programmers other than the original ones.

—The advantages of improved program design, debugging, documentation and intelligibility can be obtained through the use of this high level language regardless of interchange potential.

—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

—The program is being used for "cooperative" processing across multiple processing platforms (e.g., desktops, servers, and mainframes).

c. Nonstandard language features should be used only when the needed operation or function cannot reasonably be implemented with the portable features alone. Although nonstandard language features can be very useful, it should be recognized that their use may

*Refers to most recent revision of FIPS PUBS.

make the interchange of programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. it is recognized that programmatic requirements may be more economically and efficiently satisfied through the use of statistical and numerical software packages. The use of any facility should be considered in the context of system life, system cost, data integrity, and the potential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is a MUMPS source program, then the resulting program should conform to the conditions and specifications of FIPS MUMPS.

10. *Specifications.* FIPS MUMPS specifications are the language specifications contained in American National Standard for Information System—Programming Languages—MUMPS, ANSI/MDC X11.1–1990.

a. The ANSI/MDC X11.1–1990 document specifies the representation, syntax, and semantics for MUMPS programs; the representation of input and output data processed by MUMPS programs; and the restrictions and limitations imposed by a conforming implementation of MUMPS.

b. The standard does not specify the mechanisms by which MUMPS programs are transformed or invoked for use by a data processing system, the mechanisms by which input data are transformed for use by a MUMPS program or output data are transformed after being produced by a MUMPS program, the limits on program size or complexity, the results when the rules of the standard fail to establish an interpretation, nor all minimal requirements of a data processing system that is capable of supporting a conforming implementation.

11. *Implementation.* The implementation of this standard involves three areas of consideration: acquisition of MUMPS processors, interpretation of FIPS MUMPS, and validation of MUMPS processors.

11.1 *Acquisition of MUMPS Processors.* This publication is effective six months after date of publication of the final document in the **Federal Register.** MUMPS processors acquired for Federal use after this date should implement FIPS MUMPS. Conformance to FIPS MUMPS is applicable whether MUMPS processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce MUMPS processors conforming to the standard. The transition period begins on the effective date and continues for one (1) year thereafter. The provisions of FIPS PUB 125–1 apply to orders placed after the effective date of this publication; however, a processor conforming to the FIPS PUB 125–1, if available, may be acquired for use prior to the effective date. If a conforming processor is not available a MUMPS language processor not conforming to this standard may be acquired for interim use during the transition period.

11.2 *Interpretation of FIPS MUMPS.* NIST provides for the resolution of questions regarding FIPS MUMPS specifications and requirements, and issues official interpretation as needed. All questions about the interpretation of FIPS MUMPS should be addressed to: Director, Computer Systems Laboratory, ATTN: FIPS MUMPS Interpretation, National Institute of Standards and Technology, Gaithersburg, MD 20899, Telephone: (301) 975–2490, FAX: (301) 590–0932.

11.3 *Validation of MUMPS Processors.* NIST is developing a validation test suite and a validation service for the purpose of validating MUMPS processors for conformance to this standard. The validation system will report any areas of nonconformance that were detected. The validation service will be offered on a cost reimbursable basis. Further information about the validation service can be obtained from: Software Standards Validation Group, MUMPS Validation, National Institute of Standards and Technology, Gaithersburg, Maryland 20899 U.S.A., Telephone: (301) 975–2490, FAX: (301) 590–0932.

12. *Waivers.* Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, Technology Building, Room B–154; Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published in the **Federal Register.**

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

13. **Special Information.** The technical committee responsible for development of the MUMPS language standard should be aware that the MDC is considering changes to the MUMPS language in future revisions of the ANSI/MDC X11.1–1990 standard which may be backwards incompatible with the current ANSI/MDC X11.1–1990 document. ANSI/MDC X11.1–1990 does not specify the effects of language changes for future revisions which may be backwards incompatible with this or previous MUMPS standards.

To provide the greatest support for application portability for future revisions of the MUMPS standard, it is recommended that users assess the impact of using language features which the MDC is considering changing. For information on forthcoming language changes, contact the MUMPS Development Committee at: MUMPS Development Committee Secretariat, 1738 Elton Road, Suite 205, Silver Spring, Maryland 20903, Telephone: (301) 779–6555, FAX: (301) 779–7674.

14. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 125–1 (FIPS PUB 125–1), and title. Payment may be made by check, money order, or deposit account

[FR Doc. 92–12218 Filed 5–22–92; 8:45 am]
BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Services, NOAA.

ACTION: Receipt of application for permit (P462D).

SUMMARY: Notice is hereby given that Ervin and Sonja Strong, Research Directors and Owners, The Dolphin Connection, 315 Bridgeport Ave., suite 4, Corpus Cristi, TX 78402, have applied for a Permit to take marine mammals as authorized by the Marine Mammals Protection Act of 1972 (16 U.S.C 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicants requests a scientific research Permit to approach, harass and feed up to fifty (50) Atlantic bottlenose dolphins (*Tursiops truncatus*) in the Corpus Christi, TX area (Lat. 27 41' 20" to Long. 97 23' 31" to Long. 97 10' 45") over a five-year period. The applicants indicate that they will accumulate data to determine whether conditioning free-ranging dolphins to approach boats, to be fed by paying passengers aboard their commercial tour boats, constitutes a threat to the well-being of the dolphins involved. The applicants will sponsor two trips daily (using two boats) to accumulate data concerning feeding of free dolphins.

NMFS has evaluted the potential effect of commercial ventures which attract and feed wild dolphins from boats ("feeding programs"). As a result, NMFS concluded that the feeding of wild populations of marine mammals is a form of "take" which is prohibited under the Marine Mammal Protection Act. The Final Rule setting forth NMFS' decision to consider feeding of marine mammals in the wild as a take was published in the Federal Register March 20, 1991 (56 FR 11693).

ADDRESSES: Written data or views or requests for a public hearing on this application should be submited to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7234, Silver Spring, MD 20910, within 30 days of the publication this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of any such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this Notice are summaries of those of the Applicants and do not reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by appointment in the:

Permit Division, Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 NOAA, 1335 East-West Hwy., Suite 7324, Silver Spring, Md 20910 (301/713–2289);

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Blvd., St. Petersburg, FL 33702 (813/893–3141);

Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 W. Ocean Blvd., Long Beach, CA 90802–4213 (310/890–4015);

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930 (508/281–9200);

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE BIN C15700, Seattle, WA 98115 (206/526–6150); and

Director, Alaska Region, National Marine Fisheries Service, NOAA, Fed. Bldg., 709 W. 9th Street, Junea, AK 99802 (907/568–7221).

Dated: May 18,1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–12121 Filed 5–22–92; 8:45 am]
BILLING CODE 3510-22-M

Technology Administration

[Docket No. 920377-2077]

Invitations for Proposals Under the Advanced Technology Program (ATP)

AGENCY: Technology Administration, Commerce.

ACTION: Notice; invitations for proposals; notice of meetings.

SUMMARY: The Technology Administration invites applications for funding under the Advanced Technology Program (ATP), and announces public meetings for all interested parties. This invitation covers two competitions: Competition 92–01 and Competition 93–01. Those interested in applying for ATP funding must contact the ATP at the address shown below to obtain application materials. The Proposal Preparation Kit available upon request from the ATP contains the application forms and background documents referenced in this invitation, e.g., the ATP "Procedures." The Advanced Technology Program is Program Number 11.612 in the Catalog of Federal Domestic Assistance.

CLOSING DATE FOR APPLICATIONS: Proposals must be received at the address listed below no later than 3 p.m., e.d.t., on July 29, 1992 for Competition 92–01 and no later than 3 p.m. e.s.t., on February 24, 1993 for Competition 93–01. Proposals for Competition 92–01 will not be accepted before June 30, 1992, and proposals for competition 93–01 will not be accepted before January 25, 1993. Should the National Institute of Standards and Technology (NIST) site be closed on the specific due date, ATP proposals will be due at 3 p.m. on the next business day that the NIST site is open. It is the responsibility of applicants to ensure that their proposals are received at the ATP by the date and time stated.

Date of Public Meetings

Public meetings for parties considering applying for funding under the Advanced Technology Program will be held beginning at 1 p.m. on June 22, 1992 for Competition 92–01 and beginning at 1 p.m. on January 13, 1993 for Competition 93–01. Both meetings will be held in the Red Auditorium, Administration Building, National Institutes of Standards and Technology, Quince Orchard and Clopper Roads, Gaithersburg, MD, exit 10 off Interstate 270. Attendance at these public meetings is not required of potential proposers. The purpose of the meetings is to provide information regarding the ATP to potential applicants seeking such information.

Number of Proposals

Applicants for either competition must submit one signed original plus ten (10) copies (numbered 1 through 11) of their proposals, along with NIST Form 1262 (for Single Applicants) or NIST Form

1263 (for Joint Venture Applicants) to The Advanced Technology Program at the address below. The Office of Management and Budget (OMB) has approved the information collection requirements contained in this notice under provisions of the Paperwork Reduction Act (OMB control number 0693–0009).

ADDRESSES: Advanced Technology Program, Proposal Solicitation ATP 92–01 or 93–01, as appropriate, room A430, Administration Building (Bldg. 101), National Institute of Standards and Technology, Quince Orchard and Clopper Roads, Gaithersburg, MD 20899.

CONTACT FOR FURTHER INFORMATION: To receive application materials, contact Gail Killen at (301) 975–2636, or write to the address shown above. The ATP facsimile number is (301) 926–9524. A backup facsimile number is (301) 869–1150. Note that the ATP will mail Proposal Preparation Kits to all those individuals whose names are currently in the ATP computer data base.

SUPPLEMENTARY INFORMATION:

Background:

The ATP is managed by the National Institute of Standards and Technology, an element of the Technology Administration (TA) of the Department of Commerce. ATP was established by section 5131 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, 15 U.S.C. 278n), as modified by Public Law 102–245.

The APT operates under program procedures published as part 295, title 15, of the *Code of Federal Regulations*. These procedures will be updated to reflect the changes made to the ATP statute by Public Law 102–245. Citations in this notice reference the ATP procedures where they continue to apply, or the ATP statute as amended by Public Law 102–245 wherever its provisions supplant the procedures. (The ATP statute takes precedence over the ATP procedures.) The revised ATP legislation and the ATP procedures (15 CFR Part 295) are both included in the Proposal Preparation Kit.

The ATP is a financial assistance program to assist U.S. businesses to improve their competitive position and promote U.S. economic growth by accelerating the development of pre-competitive generic technologies. The terms "generic technology" and "pre-competitive technology" are defined in the ATP procedures.

Cooperative research agreements rather than grants are the funding instruments used for ATP awards. A cooperative research agreement differs from a grant with respect to the amount of interaction between the Federal Government and the recipient, and is used to provide financial assistance when substantial involvement is anticipated between the government and the recipient. NIST intends to select proposals for funding approimately six months after the closing date for applications. (The actual selection date will depend on the number of applications received.)

Research and development activities cover a wide spectrum, from basic research at one extreme to the development of specific new products at the other. The ATP is intended to foster the development of technology that is beyond basic research, but not at the stage of new product development. Thus, the ATP will include the development of laboratory prototypes intended to establish technical feasibility but not prototypes of commercial products. The ATP will not fund projects to demonstrate commercial viability or projects involving market testing or regulatory compliance testing of specific products.

The purpose of the ATP is to assist U.S. companies in creating and applying "generic technology" and research results to help commercialize new technology more quickly and to improve manufacturing processes. While it is hoped and intended that new products will ultimately result from work funded by the ATP, the program will not focus on giving participating companies a competitive advantage for specific new products. Rather, the focus will be on supporting work that has great economic potential and broad benefits. Accordingly, joint ventures are emphasized in the ATP legislation, which states that the ATP should "avoid providing undue advantage to specific companies." The ATP is open to proposals in all areas of precompetitive generic technology.

Invitation for Proposals: The Technology Administration invites applications for ATP funding for two types of proposals:

(1) Technology development proposals from qualified individual United States businesses (see Applicant Eligibility below) in amounts not to exceed $2 million over three years. However, single applicants must fund all indirect costs associated with the project.

(2) Technology development proposals from qualified industry-led United States joint research and development ventures (see Applicant Eligibility below), where ATP support will serve as a catalyst for the proposed joint venture project, and provided, however, that the ATP share is a minority share of the cost of the venture for up to five years.

All awards are subject to the availability of appropriations. Future or continued funding for multi-year projects will be at the discretion of the Technology Administration and will be contingent on such factors as satisfactory performance and the availability of funds.

Funds Available for Cooperative Research Agreements: The ATP fiscal year 1992 appropriation was $47.363 million. The President's budget for fiscal year 1993 requested $67.9 million for the ATP. An estimated $15 to $20 million will be available for each of the two competitions described in this solicitation. Actual amounts to be made available are contingent on Fiscal Year 1993 appropriations and will depend on the funding required to support ongoing projects selected in previous competitions. The number of awards will depend on the amount of funding requested by the selected proposals.

Applicant Eligibility: ATP funding is available to eligible United States businesses and joint ventures. The term "joint venture" is defined in 15 U.S.C. 278n(j)(1). This definition, which can be found in the amended ATP legislation reproduced in the proposal preparation kit, supersedes the definition of joint venture in the ATP procedures. An eligible joint venture must consist of at least two United States businesses, each of which is eligible to apply as a single applicant, and both of which must participate in the proposed R&D program and contribute toward the matching funds requirement. The ATP statute as amended also states, In the case of joint ventures, the Program shall not make an award unless the award will facilitate the formation of a joint venture or the initiation of a new research and development project by an existing joint ventures. (See 15 U.S.C. 278n(d)(2).)

As a result of amendments to the ATP legislation included in Public Law 102–245, non-profit independent research organizations can no longer apply as single applicants, however, they may participate in a joint venture if the joint venture meets the eligibility requirements of the ATP legislation and all the criteria in this section. The current ATP legislation also requires that joint ventures be "industry-led." For the purposes of the ATP, an "industry-led" joint venture is one in which industry members of the joint venture provide most or all of the matching funds required by the Program, set the research agenda and priorities that will be followed by the joint venture, and contribute substantially to the scientific

expertise that supports the conduct of the actual research.

An additional eligibility requirement for ATP funding has been mandated by the following provision of Public Law 102–245, Sec. 201(c)(6)(C):

A company shall be eligible to receive financial assistance under this section only if—

(A) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(B) either—

(i) the company is a United States-owned company; or

(ii) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under the Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

Section 15 U.S.C. 278n(j)(2) of the ATP statute, as added by Public Law 102–245, defines the term "United States-owned company" as a company that has a majority ownership or control by individuals who are citizens of the United States.

The provisions cited above must be addressed in the proposal.

In addition to the changes noted above, Public Law 102–245, title II, section 201(c)(7) added the following additional provision to the ATP legislation:

(e) The Secretary may, within 30 days after notice to Congress, suspend a company or joint venture from continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to satisfy any of the criteria set forth in subsection (d)(9), and that it is in the national interest of the United States to do so.

ATP funds may not flow directly to universities, Federal laboratories, or state agencies. Universities, Federal laboratories, and non-profit independent research organizations may participate as members of an eligible industry-led joint venture and (except for NIST) may receive funding via industry members of the joint venture. They may also be subcontractors to single applicants or to joint ventures. A non-profit independent research organization may provide administrative leadership for a joint venture and may receive ATP funds on behalf of the joint venture as a whole satisfies all the eligibility criteria in this section. As a matter of policy, NIST's intramural programs cannot receive ATP funding from a joint venture (or its members), or from a single applicant.

However, NIST intramural programs may choose to collaborate with applicants where appropriate. Such collaboration will not increase or decrease an applicant's chances of receiving an award.

Preparation of Proposals and Reporting Requirements: The ATP Proposal Preparation Kit, available from the ATP, contains background material on the ATP, detailed contents and formatting guidelines for the preparation of proposals, and the required forms. Also included in information on reporting and audit requirements for recipients.

To be accepted for review, proposals must meet the following requirements:

1. The original proposal plus ten (10) copies must be delivered to the ATP at the address specified above before the closing time and date cite above for each competition.

2. The proposal must meet the requirements for format, length, and content described in the *Information Requirements* section of the Proposal Preparation Kit for Competitions 92–01 and 93–01.

3. The information contained in the proposal should adequately address *all* of the requirements of the *Information Requirements* section of the Proposal Preparation Kit. These include separate sections of the proposal addressing the proposed budget, the individual selection criteria described in the ATP Procedures, and a plan for addressing the ownership, protection, and potential licensing of intellectual property developed as a result of the project.

4. The original and ten (10) copies of NIST Form 1262 (for single applicants) or 1263 (for joint venture applicants) must be bound with the proposals. A separate unbound copy of the appropriate form should also be transmitted with the proposals.

5. Single applicant proposals must include a Nonpayment of Indirect Costs Assurance Statement. Budget must be consistent with the requirement that ATP funds not be used for payment of indirect costs.

Joint Venture applicant proposals must include a Matching Funds Assurance Statement. Budget must be consistent with the requirement that ATP funds will cover less than 50% of the resources required to carry out the propose project. Joint venture applicants which plan to charge indirect costs must include them as a line item in their propose budget. Generally, indirect cost rates should not exceed 100 percent of direct costs, however, NIST will accept applications from applicants who proposed for the Department's consideration, indirect cost rates in excess of 100 percent of total direct costs if adequately documented and absolutely essential in meeting the ATP program objectives.

6. All applicants must provide a United States-Owned Company Assurance Statement. Those proposals that involve the participation of organizations that are not United States-owned (as defined previously) must address in that statement the ownership requirements of Public Law 102–245 cited above. Regardless of ownership, applicants should address in the "Board Based Benefits" section of the proposal how the proposal meets the eligibility requirement noted above with respect to the proposed work being in the economic interest of the United States.

7. All applicants must provide a certification that Federal funding is needed if the project is to be carried out in the proposed time frame.

Proposals that fail to meet one or more of the above requirements will be considered non-responsive to this solicitation.

Award Criteria for Technology Development Proposals: The criteria used to evaluate proposals submitted in response to this notice appear in the ATP Procedures, published at § 295.3(b) of title 15 of the Code of Federal Regulations and reproduced in the Proposal Preparation Kit, except that the requirement in § 295.3(b)(5)(v)—potential return to the U.S. government—no longer applies. Public

Law 102–245 rescinded the provisions of the ATP statute that required ATP awardees to provide to the Federal government a pro rata share of royalty payments and licensing fees arising out of intellectual property resulting from ATP-funded projects. Accordingly, ATP recipients, beginning with Competition 92–01, are no longer required to share royalties.

The Proposal Review Process: The proposal review process is described in the ATP Procedures at § 295.3(a) of title 15 of the Code of Federal Regulations. The length of the review process depends on the number of proposals received. The entire selection process is expected to take approximately six months.

Negotiation of Cooperative Agreements: NIST reserves the right to negotiate project scope and funding levels with ATP cooperative research agreement recipients.

Submission of Revised Proposals: An applicant may submit a proposal that is a revised version of a proposal submitted to a previous ATP competition. NIST will examine such proposals to determine whether substantial revisions have been made. Where the revisions are determined not to be substantial, NIST reserves the right to score and rank, or where appropriate, to reject, such proposal based on reviews of the previously-submitted proposal.

Other Requirements, Requests, and Provisions: No award of Federal funds shall be made to an applicant or recipient who has an outstanding delinquent Federal debt until the delinquent account is paid, a negotiated repayment schedule is established, and at least one payment is received, or other arrangements satisfactory to the Department are made.

All for-profit and nonprofit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which are significant to determining the applicant's management abilities and level of responsibility.

Unsatisfactory performance under prior Federal awards may result in an applicantion not being considered for funding.

If an applicant incurs any costs prior to an award being made, it does so solely at its own risk. NIST is under no obligation to cover pre-award costs, notwithstanding any verbal indication otherwise.

Public Law 102–245, title II, section 201(c)(6) amended the ATP legislation with regard to intellectual property by adding the following paragraphs:

(11)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States. The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States, until the expiration of the first patent obtained in connection with such intellectual property.

(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

(C) Nothing in the paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.

This provision shall apply concurrently with § 295.5(a) of the ATP Procedures. Primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension, and other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying." Prospective participants, as defined at 15 CFR Part 26.105, are subject to 15 CFR part 26, "Governmentwide Debarment and Suspension (Nonprocurement)" and the applicable section of the Form CD–511. Grantees, as defined at 15 CFR 26.605, are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the applicable section of the Form CD–511. Persons, as defined at 15 CFR 28.105, are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions." The section of the Form CD–511 relating to lobbying applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater. Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and Form SF–LLL, "Disclosure of Lobbying Activities." Although the CD–512 is intended for the use of primary recipients and should not be transmitted to NIST, the SF–LLL submitted by any tier recipient or subrecipient should be forwarded in accordance with the instructions contained in the award document.

A false statement on any application for funding under ATP may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment. The ATP does not involve the mandatory payment of any matching funds from state or local government and does not affect directly any State or local government. Accordingly, the Department of Commerce has determined that Executive Order 12372, "Intergovernmental Review of Federal Programs" is not applicable to this program. Awards under ATP shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards.

Dated: May 19, 1992.

Robert M. White,

Under Secretary for Technology.

[FR Doc. 92–12155 Filed 5–22–92; 8:45 am]

BILLING CODE 3510–13–M

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

Los Angeles Community Service Project: Availability of Funds

May 26, 1992.

ACTION: Notice of availability of funds.

The emergency conditions in the City of Los Angeles offer a unique opportunity for national and community service advocates to demonstrate the critical role that service can play in bringing individuals, organizations and institutions together in a collaborative effort to address important needs and to build a strong sense of community. In a time of racial tension, alienation and social "disconnectedness," particularly among young people, the Commission believes that community service can

provide a "common ground" whereby youth of varying ethnic, racial and socioeconomic backgrounds can work side-by-side in a common effort to address some of the needs of the City while at the same time learning about and building relationships with one another. Meaningful service to others can also benefit youth by providing important educational and employment skills.

The Commission on National and Community Service therefore announces the availability of funds to support an innovative community service initiative working with school age youth in the Los Angeles area, particularly in those areas impacted by the recent riots. These funds are provided under the authority of the National and Community Service Act of 1990, as amended.

The Commission has recently authorized a grant for disaster relief for the Los Angeles Conservation Corps (LACC) pursuant to the authority of 42 U.S.C. 12542(d)(1). This grant was authorized with the intent of helping the Corps to expand its services and recruit additional corps members from areas most severely impacted by the violence. The Commission seeks to leverage the impact of this emergency grant by providing additional funding for a community service project that will work cooperatively with the LACC and others to provide additional young people opportunities to serve their community in the rebuilding effort. The Commission believes that a youth oriented, multi-cultural service project can show the Nation the power of community service in overcoming racial and economic barriers that have historically isolated neighborhoods and communities from one another.

A. Program Design

The Commission encourages a collaborative effort that will involve K–12 schools, community colleges and universities—as well as other youth service agencies—in an initiative to mobilize the youth of Los Angeles in a "call to service." While flexibility in design is a goal, the Commission strongly emphasizes the need for collaboration and outreach to diverse sectors of the youth service community, especially to those organizations that work with at-risk or low income communities (notably those communities most impacted by the riots), such as religious organizations and youth service organizations that work with gangs members. Collaboration with organizations or groups of entertainers may also provide opportunities for developing dialogues with disenfranchised youth and generating commitments of involvement by recognized and respected persons who could motivate and encourage youth.

One goal should be to empower young people by providing them the opportunities, training and resources to serve their community. More importantly, the Commission encourages applicants to design their programs in such a fashion that facilitates relationships among school age, college, and out of school youth including the LACC corps (i.e., cross-age tutoring/mentoring, corps/college partnerships, corps/school-based partnerships, etc.).

Another goal should be to stress the role of cultural, racial and economic diversity, demonstrating that youth from all backgrounds can learn, work and serve together, building lasting relationships that will contribute to the long-term improvement of dialogue and communication among the citizens of Los Angeles.

The proposed program must address development of youth leadership, provision for youth voice and involvement and provide useful service to impacted areas. There should be a focus on some aspect of physical rebuilding in the impacted Los Angeles area and addressing the real needs of the community. It must also bring a diverse group of young people together with adults so their voice can be heard and they can work on service projects together while rebuilding relationships among diverse groups.

Youth must be involved as active participants in all aspects of the program including planning, leadership, and evaluation. There should be an appropriate reflection component for all participants that considers the problems that led to the riots and potential long-term solutions.

The proposed program will specify the number of participants to be added and the additional volunteers expected and the rationale. In addition, the program should address all of the evaluation criteria including long-term impact and organizational and leadership qualifications.

B. Eligible Applicants

Applicants may be public or private nonprofits, local educational agencies, institutions of higher education (or consortia of institutions of higher education) with extensive youth service in the metropolitan Los Angeles area. The Commission does not intend to award separate components of this innovative Los Angeles community service project. Therefore, applicants are encouraged to submit collaborative proposals with as many appropriate organizations as feasible. One organization with the necessary management, service experience and programmatic capability should be designated as the lead and official applicant and will be responsible for all project performance. The Commission expects applicants to build on the existing framework of organizations and institutions.

C. Available Funds and Special Conditions

The Commission intends to provide funding for only one application as it deems appropriate. The range of funding available for this initiative is $200,000 to $500,000 for up-to-24 months. Matching funds will be a consideration in making the award.

The following special conditions are applicable:

1. Allowability of costs will be determined in accordance with OMB Circulars A–21 or A–122 as appropriate.

2. Awards will be administered in accordance with OMB Circular A–110.

3. Stipends will be allowed only for youth who are in leadership roles.

4. No equipment purchases will be allowable from Commission funds.

5. The project must reserve 4% of any funding for evaluation and preparation of a final comprehensive report.

D. What To Submit and When

Applications must be limited to 20 double-spaced pages including vitae, all attachments and budget material and must be signed and submitted in three copies. Proposals must be received by 4:30 p.m. e.s.t., June 20, 1992 at the Commission on National and Community Services, suite 452, 529 14th Street, NW., Washington, DC. Proposals should contain the following information:

(1) Applicant information.

(2) One page Project Summary.

(3) Program Description.

(4) Project Director and Key personnel.

(5) Budget-salaries, indirects, travel, stipends, etc.

E. Evaluation of Applications

Applications under this announcement will be evaluated by the following criteria:

1. Quality of the Proposed Project—This criterion relates to the soundness of the proposed project and its design in meeting the above stated goals and objectives.

2. The potential long-term impact of the project on youth and the community

beyond the period funded and continued sustainability of the project;

3. The capability of the proposed Project Director and principle staff;

4. The institutional resources of the primary applicant and other collaborative partners: demonstration of building on existing institutional framework.; and

5. Cost of the project relative to benefit and impact. Special consideration will be given to cost-sharing or matching funds.

The Commission may enter into discussions with one or more applicants before final selection. Before award, the applicants will be required to comply with all assurances and compliances contained in OMB Circular A-110 and such others as required by the Act.

Catherine Milton,

Executive Director, Commission of National and Community Service.

[FR Doc. 92-12142 Filed 5-22-92; 8:45 am]

BILLING CODE 6820-BA-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Federative Republic of Brazil

May 19, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: May 27, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In an exchange of letters dated April 16 and 23, 1992, the Governments of the United States and the Federative Republic of Brazil agreed to extend their current bilateral textile agreement for a one-year period beginning on April 1, 1992 and extending through March 31, 1993.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State (202) 647-3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 19, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated September 15 and 19, 1988, as amended and extended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 27, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Brazil and exported during the twelve-month period beginning on April 1, 1992 and extending through March 31, 1993, in excess of the following levels of restraint:

Category	Twelve-month restraint limit [1]
Aggregate Limit 200-239, 300-369, 400-469 and 600-670, as a group. Sublevels in the aggregate	342,996,165 square meters equivalent.
218	4,222,366 square meters.
219	13,722,690 square meters.
225	7,389,140 square meters.
300/301	5,726,499 kilograms.
313	38,845,768 square meters.
314	5,805,754 square meters.
315	17,417,261 square meters.
317/326	15,833,873 square meters.
334/335	113,622 dozen.
336	63,124 dozen.
338/339/638/639	1,136,229 dozen.
342/642	334,556 dozen.
347/348	820,610 dozen.
350	107,310 dozen.
361	858,484 numbers.
363	20,452,127 numbers.
369-D [2]	409,221 kilograms.
410/624	8,444,733 square meters of which not more than 2,523,224 square meters shall be in Category 410.
433	17,515 dozen.
445/446	68,616 dozen.
604	400,855 kilograms of which not more than 306,368 kilograms shall be in Category 604-A [3].
607	3,722,225 kilograms.
647/648	378,743 dozen.
669-P [4]	1,364,071 kilograms.

[1] The limits have not been adjusted to account for any imports exported after March 31, 1992.

[2] Category 369-D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[3] Category 604-A: only HTS number 5509.32.0000.

[4] Category 669-P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

Imports charged to these category limits for the period April 1, 1991 through March 31, 1992 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the Federative Republic of Brazil.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-12158 Filed 5-22-92; 8:45 am]

BILLING CODE 3510-DR-F

Request for Public Comments on Bilateral Textile Consultations with the Federative Republic of Brazil on Certain Wool Textile Products

May 19, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: May 27, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715. For information on categories on which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On April 30, 1992, under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated September 15 and 19, 1988, as amended and extended, between the Governments of the United States and the Federative Republic of Brazil, the United States Government requested consultations with the Government of the Federative Republic of Brazil with respect to men's and boys' wool suits in Category 443.

The purpose of this notice is to advise the public that, pending agreement on a mutually satisfactory solution concerning Category 443, the Government of the United States has decided to control imports during the ninety-day consultation period which began on April 30, 1992 and extends through July 28, 1992.

If no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, may later establish a specific limit for the entry and withdrawal from warehouse for consumption of textile products in Category 443, produced or manufactured in Brazil and exported during the prorated period beginning on July 29, 1992 and extending through March 31, 1993, of not less than 55,839 numbers.

A summary market statement concerning Category 443 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 443, under the agreement with the Government of the Federative Republic of Brazil, or to comment on domestic production or availability of products included in Category 443, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of the Federative Republic of Brazil.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Category 443. Should such a solution be reached in consultations with the Government of the Federative Republic of Brazil, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Brazil

Category 443—Men's and Boys' Wool Suits

April 1992

Import Situation and Conclusion

U.S. imports of men's and boys' wool suits, Category 443, from Brazil reached 78,809 units (6,567 dozen) during the year ending in February 1992, 7 percent above the 73,393 units (6,116 dozen) imported during the year ending in February 1991. In the first two months of 1992, imports of Category 443 from Brazil reached 17,482 units (1,487 dozen), more than double the 8,002 units (667 dozen) shipped during the same time period in 1991.

The sharp and substantial increase of Category 443 imports from Brazil is causing a real risk of market disruption in the U.S. market for men's and boys' wool suits.

U.S. Production, Import Penetration and Market Share

U.S. production of men's and boys' wool suits, Category 443, declined in every year since 1988, falling from 482,000 dozen in 1988 to 336,000 dozen in 1991, a 30 percent drop. U.S. imports of men's and boys' wool suits, Category 443, increased in 1989, declined in 1990 and then increased again in 1991 reaching 214,000 dozen, 10 percent above the 1990 level and 28 percent above the 1988 level. The domestic manufacturers' share of the men's and boys' wool suit market fell from 74 percent in 1988 to 61 percent in 1991, a decline of 13 percentage points. The ratio of imports to domestic production in Category 443 rose from 35 percent in 1988 to 64 percent in 1991.

Duty-Paid Value and U.S. Producers' Price

Approximately 70 percent of Category 443 imports from Brazil during the year ending February 1992 entered the U.S. under HTSUSA numbers 6203.11.2000—men's and boys' wool suits, other than those containing 30 percent or more by weight of silk. These garments entered at duty-paid landed values below U.S. producers' prices for comparable wool suits.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated September 15 and 19, 1988, as amended and extended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 27, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 443, produced or manufactured in Brazil and exported during the period beginning on April 30, 1992 and extending through July 28, 1992, in excess of 27,356 numbers [1].

[1] The limit has not been adjusted to account for any imports exported after April 29, 1992.

Textile products in Category 443 which have been exported to the United States on and after April 1, 1992 shall remain subject to the aggregate limit established in the directive dated May 19, 1992 for the period April 1, 1992 through March 31, 1993.

Textile products in Category 443 which have been exported to the United States prior to April 30, 1992 shall not be subject to the limit established in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-12157 Filed 5-22-92; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Defense Systems Management College.

ACTION: Request for comment.

SUMMARY: Working Group One of the DOD Advisory Panel on Streamlining and Codifying Acquisition Laws is offering for public study and comment a revised and expanded version of its draft proposal concerning socio-economic laws affecting defense procurement. The revised proposal covers various labor statutes, definitions of commercial companies, products and services, small purchase thresholds, small business issues and environmental policy statements.

For further information contact Lt. Commander Ben Capshaw at (703) 355-2682.

Dated: May 20, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liason Officer, Department of Defense.

[FR Doc. 92-12165 Filed 5-22-92; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary of Defense

DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Defense Systems Management College.

ACTION: Notice of Meeting.

SUMMARY: Open to the public on June 18 and June 19, 1992, at the Fort Belvoir Officer's Club located on Fort Belvoir, VA. The panel will hear presentations and recommendations by the various panel working groups on the statutes they have reviewed to date. The meeting on June 18, 1992, will begin at 8:30 a.m. and end at 4:30 p.m. The meeting on June 19, 1992, will begin at 8:30 a.m. and end at 12 p.m.

For further information contact Laura Neal at (703) 355-2665

Dated: May 20, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liason Officer, Department of Defense.

[FR Doc. 92-12166 Filed 5-22-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Committee on Technology Options for Global Reach—Global Power: 1995-2020 (Power Projection Panel) will meet on 11-12 June 1992, at McDonnell Douglas Missile Systems Co, St. Louis, MO at 8 a.m. to 5 p.m.

The purpose of this meeting is to receive briefings and gather information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-12115 Filed 5-22-92; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

CNO Executive Panel; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel will meet June 12, 1992, from 9 a.m. to 5 p.m. in Alexandria, Virginia.

The purpose of this meeting is to review maritime environment issues as they impact naval vessel construction and operation and shore establishment environmental protection. The agenda of the meeting will consist of discussions of key issues related to environmental cleanup and protection of naval facilities.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: May 18, 1992.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 92-12117 Filed 5-22-92; 8:45 am]

BILLING CODE 3810-AE-F

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Naval Research Advisory Committee Panel on STOVL (Short Take-off/Vertical Landing) Strike Fighter (SSF) Replacement Aircraft in the 2010-2020 timeframe will meet on June 9, 10, and 11, 1992. The meeting will be held at the Marine Corps Air Station, Yuma, Arizona. The meeting will commence at 8:30 a.m. and terminate at 4:30 p.m. on June 9; and commence at 8 a.m. and terminate at 3:30 p.m. on June 10; and commence at 8 a.m. and terminate at 1 p.m. on June 11, 1992.

The purpose of the meeting is to provide the Navy with an assessment of the need for an SSF as a multi-mission replacement aircraft for the 2010-2020 timeframe, and identify the key technology issues and trade-offs associated with the SSF versus Conventional Take-off and Landing (CTOL) aircraft. The agenda will include briefings and discussions related to the projected threat, Desert Storm Lessons Learned, combined arms operations, carrier operations, operational test and evaluation, and future requirements. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander John Hrenko, USN, Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000, Telephone Number: (703) 696-4870.

Dated: May 18, 1992.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Liaison Officer.

[FR Doc. 92-12118 Filed 5-22-92; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF EDUCATION

National Advisory Council on Educational Research and Improvement; Meeting

AGENCY: National Advisory Council on Educational Research and Improvement, Education.

ACTION: Full council meeting of the National Advisory Council on Educational Research and Improvement.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Educational Research and Improvement. This notice also describes the functions of the Council. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: June 29 and 30, 1992, 8:30 a.m. to 5:30 p.m. Meeting will take place on both days in the Washington Court Hotel (room will be posted).

ADDRESSES: Washington Court Hotel, 525 New Jersey Avenue NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Mary Grace Lucier, Executive Director, National Advisory Council on Educational Research and Improvement, 330 C Street SW., Washington, DC 20202-7579, (202) 732-4504.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Educational Research and Improvement is established under section 405 of the 1972 Education Amendments, Public Law 92-318, as amended by the Higher Education Amendments of 1986, Public Law 99-498 (20 U.S.C. 1221e). The Council is established to advise the President, the Secretary of Education and the Congress on policies and activities carried out by the Office of Educational Research and Improvement (OERI).

The meeting of the Council is open to the public. The proposed agenda for June 29 includes briefings on the topics of preparing teachers for AMERICA 2000 and on the private practice option for classroom teachers. On June 30 the members will hear presentations on the Edison Project and on Schools for the 21st Century. A final agenda will be available from the Council office on June 15.

Records are kept of all Council Proceedings and are available for public inspection at the Office of the National Advisory Council on Educational Research and Improvement, 330 C Street SW., suite 4076, Washington, DC 20202-7579, from 9 a.m. to 5 p.m. Monday through Friday.

Dated: May 19, 1992.

Mary Grace Lucier,

Executive Director.

[FR Doc. 92-12170 Filed 5-22-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER90-325-001, et al.]

Toledo Edison Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Toledo Edison Company

[Docket No. ER90-325-001]

May 13, 1992.

Take notice that on April 22, 1992 Toledo Edison Company (Toledo) tendered for filing its compliance filing in the above-referenced docket.

Comment date: May 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Delmarva Power & Light Company

[Docket No. ER92-358-000]

May 13, 1992.

Take notice that on April 30, 1992, Delmarva Power & Light Company tendered for filing an amendment to its proposed rate schedule changes to its FERC Rate Schedule Nos. 67, 69, and 71. This amendment provides additional information concerning existing "non-contractual" agreements and payments associated with "aid-in-construction" projects entered into by certain of Delmarva's municipal customers.

Comment date: May 22, 1992, in accordance with Standard Paragraph E at the end of this notice.

Tucson Electric Power Comany

[Docket No. ER92-390-000]

May 13, 1992.

Take notice that on April 17, 1992, Tucson Electric Power Company (Tucson) tendered for filing an Amendment to the Interchange Agreement (the Agreement) between Tucson and the City of Riverside, California (Riverside). The purpose of the Amendment is to establish the effective date for economy energy transactions between Tucson and Riverside. Tucson states that services may be provided under Service Schedule A to the Agreement.

Copies of this filing have been served on all parties affected by this proceeding.

Comment date: May 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

Wisconsin Public Service Corporation

[Docket No. ER92-356-000]

May 13 1992.

Take notice that on Wisconsin Public Service Corporation (WPSC) on April 9, 1992 tendered for filing a letter supplementing its Limited Term Capacity Agreement with the Marshfield Electric and Water Department, Wood County, Wisconsin (MEWD). The supplement limits the applicability of a one-mill adder for difficult-to-quantify costs.

WPSC states that copies of its filing have been served upon MEWD and the Public Service Commission of Wisconsin.

Comment date: May 27, 1992, in accordance with Standard Paragraph E end of this notice.

Tucson Electric Power Company

[Docket No. ER92-495-000]

May 13, 1992.

Take notice that on April 29, 1992, Tucson Electric Power Company (Tucson) tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 41.

Tucson proposes an effective date of December 31, 1991.

Comment date: May 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Sithe/Independence Power Partners, L.P.

[Docket No. QF92-142-000]

May 13, 1992.

On May 1, 1992, Sithe/Independence Power Partners, L.P., 135 East 57th Street, 23rd Floor, New York, New York 10022, submitted for filing an application

for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located on Lake Road North, in the town of Scriba, New York. The facility will consist of two combined-cycle power blocks, each consisting of two combustion turbine generators, two heat recovery boilers and an extraction/condensing steam turbine generator. Thermal energy from the facility, in the form of extraction steam, will be used to heat water for the space heating requirements of the Alcan Rolled Products Company. The net electric power production capacity of the facility will be 1,034 MW. The primary energy source for the facility will be natural gas. Installation of the facility is expected to begin in July, 1992.

Comment date: June 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. David K. Laniak

[Docket No. ID-2714-000]

May 14, 1992.

Take notice that on May 7, 1992, David K. Laniak (Applicant tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Officer (Sr. Vice President)—Rochester Gas and Electric Corporation
Director—Telog Instruments

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. St. John's Riverside Hospital

[Docket No. QF92-144-000]

May 14, 1992.

On April 30, 1992, St. John's Riverside Hospital (Applicant), of 967 North Broadway, Yonkers, New york 10701, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing

The topping- cycle cogeneration facility will be located in Yonkers, New York. The facility will consist of two gas reciprocating engine generators, and two waste heat boilers. Thermal energy recovered from the facility will be used to generate steam for heating, sterilization, food preparation and hot water for the hospital. The primary energy source will be natural gas. The net electric power production capacity of the facility will be 1.26 MW. Installation of the facility will start in May 1992.

Comment date: June 25, 1992; in accordance with Standard Paragraph E at the end of this notice.

9. Bangor Hydro-Electric Company

[Docket No. ER92-506-000]

May 14, 1992.

Take notice that on April 29, 1992, Bangor Hydro-Electric Company (Bangor-Hydro) tendered for filing Notices of Cancellation of the following rate schedules:

Rate schedule	Affected customer	Termination date
0041	Central Maine Power Company	10/31/91
0043	Central Maine Power Company	10/31/86
0044	Central Vermont Public Service Corp	2/28/87
0045	Green Mountain Power Corporation	10/31/88
0047	Fitchburg Gas & Electric Light Co	10/31/88
0048	UNITIL Power Corporation	10/31/91
0053	Central Vermont Public Service Corp	10/31/88

Comment date: May 28, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Cleveland Electric Illuminating Company

[Docket No. ER92-529-000]

May 14, 1992.

Take notice that on May 6, 1992, Cleveland Electric Illuminating Company (in concurrence with City of Painesville) tendered for filing copies of an amended "Interconnection Agreement—Painesville—CEI—1974" between the City of Painesville and CEI to replace without interruption the original Agreement entered into January 13, 1976. This revision provided changes to the Facilities Section, Schedule A—Emergency Service, Schedule B—Short Term Service, Schedule C—Limited Term Service, Schedule D—Interchange Power and the cancellation of Schedule E—Coordination of Scheduled Maintenance of Generating Facilities.

Comment date: May 28, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. Interstate Power Company

[Docket No. ER92-505-000]

May 14, 1992.

Take notice that on April 29, 1992, Interstate Power Company tendered for filing a Firm Power Interchange Transaction Agreement between Interstate Power Company and United Power Association. Under this Agreement, Interstate Power Company will sell 75 MW of firm power in accordance with Service Schedule J of the Mid-Continent Area Power Pool Agreement. This Agreement provides for firm power sales during the MAPP summer season only commencing May 1, 1992 and ending October 31, 1992. The parties request a waiver of the Commission's 60 day filing period for this Agreement and an effective date of May 1, 1992 for such Agreement.

Comment date: May 28, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. Central Power and Light Company

[Docket No. ER92-171-000]

May 14, 1992.

Take notice that on April 28, 1992, Central Power and Light Company (CPL) tendered for filing supplementary information in response to the Commission Staff's deficiency letter dated February 21, 1992 in the above captioned docket. CPL's filing included a Letter Agreeemnt dated April 4, 1992, between CPL and the Public Utilities Board of the City of Brownsville, Texas (PUB), that amends the Letter Agreement between CPL and PUB filed in this proceeding on November 1, 1991.

Copies of the filing have been served on the Public Utilities Board of the City of Brownsville, Texas, and on the Public utility Commission of Texas.

Comment date: May 28, 1992, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Electric and Gas Company

[Docket No. ER92-336-000]

May 14, 1992.

Take notice that on April 28, 1992 the Public Service Electric and Gas Company (PSE&G) tendered for filing and Initial Rate Schedule to provide interruptible transmission service to Pennsylvania Power and Light Company (PP&L) for the delivery of power and associated energy to the Consolidated Edison Company of New York, Inc. In response to discussions with Commission Staff, PSE&G, on April 23, 1992 submitted the First Supplemental Agreement by and between Public Service Electric and Gas Company and Pennsylvania Power and Light Company, dated April 23, 1992 which amends the interruptible transmission service agreement in certain limited respects, together with a revised supporting exhibit.

Public Service proposes an effective date of the Initial Rate Schedule as of February 24, 1992, and therefore

requests waiver of the Commission's notice requirements.

Copies of the filing, as amended, have been served on CEA and the New Jersey Board of Regulatory Commissioners.

Comment date: May 28, 1992, in accordance with Standard Paragraph E at the end of this notice.

14. Blackstone Valley Electric Corporation

[Docket No. ER92-207-000]

May 14, 1992.

Take notice that on April 29, 1992, Blackstone Valley Electric Company (Blackstone), in response to a request from the Staff, amended its filing by providing detailed explanation of how Blackstone will determine charges to Northeast Energy Associates (NEA) for operations and maintenance expenses, property taxes, insurance and any other expenses associated with the interconnection facilities in accordance with Paragraph 5 of the agreement between NEA and Blackstone filed in this docket.

Comment date: May 28, 1992, in accordance with Standard Paragraph E end of this notice.

15. Central Hudson Gas & Electric Corporation

[Docket No. ER92-347-000]

May 14, 1992.

Take notice that on May 7, 1992, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing an amendment to its development of actual costs for 1990 related to transmission service provided from the Roseton Generating Plant to Consolidated Edison Company of New York, Inc. (Con Edison) and Niagara Mohawk Power Corporation (Niagara Mohawk) in accordance with the provisions of its Rate Schedule FERC. 42.

The actual costs for 1990 amounted to $1.0271 per Mw.-day to Con Edison and $3.5168 per Mw.-day to Niagara Mohawk and are the basis on which charges for 1991 have been estimated.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1991 as agreed by the parties.

Central Hudson states that a copy of its filing was served on Edison, Niagara Mohawk and the State of New York Public Service Commission.

Comment date: May 28, 1992, in accordance with Standard Paragraph E at the end of this notice.

16. Ohio Energy Limited

[Docket No. QF92-98-000]

May 15, 1992.

On May 11, 1992, Ohio Energy Limited (Applicant) tendered for filing an amendment to its filing in this docket.

The amendment provides additional information pertaining to the ownership structure and clarifies certain technical information. No determination has been made that the submittal constitutes a complete filing.

Comment date: June 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

17. Union Electric Company and Central Illinois Public Company

[Docket No. EC92-16-000]

May 15, 1992.

Take notice that on May 8, 1992, Union Electric Company (UE) and Central Illinois Public Service Company (CIPS) filed an Application pursuant to section 203 of the Federal Power Act seeking an order authorizing UE to sell certain limited transmission facilities to CIPS and authorizing CIPS to consolidate such facilities with CIPS' existing facilities.

The proposed sale of the transmission facilities is part of a larger overall transaction whereby UE will sell to CIPS almost all of the distribution facilities currently used by UE to provide retail electric service within Adams, Henderson and Hancock Counties in the state of Illinois. CIPS will thereafter provide the retail electric service to those customers. UE and CIPS have requested a Commission order by October 31, 1992.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

18. Commonwealth Edison Company

[Docket No. ER92-522-000]

May 15, 1992.

Take notice that on May 4, 1992, Commonwealth Edison Company (Edison) tendered for filing Notices of Cancellation with respect to Rate Schedule FPC No. 4 (an interconnection agreement with Central Illinois Electric and Gas Company), Rate Schedule FPC No. 13 (sale of limited Term, Power to Wisconsin Electric Power Company and Wisconsin Power and Light Company) Rate schedule, FPC No. 24 (sale of Limited Term Power to Wisconsin to Wisconsin Electric Power Company), Rate Schedule No. 25 (sale of Limited Term Power to Wisconsin Power and Light Company), and Rate Schedule FPC No. 19 (sale of Standby Power to Wabash Valley Power Association).

Copies of this filing were served upon Wisconsin Electric Power Company, Wisconsin Power and Light Company, Wabash Valley Power Association and the Illinois Commerce Commission.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

19. Upper Peninsula Power Company

[Docket No. ER92-527-000]

May 15, 1992.

Take notice that on May 1, 1992, Upper Peninsula Power Company (Upper Peninsula) tendered for filing an amendment to the Interconnection Agreement between Upper Peninsula and the City of Escanaba, Rate Schedule No. 0029.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

20. Tucson Electric Power Company

[Docket No. ER92-499-000]

May 15, 1992.

Take notice that on April 29, 1992, Tucson Electric Power Company (Tucson) tendered for filing a Notice of Cancellation of the May 17, 1987, Tucson Rate Schedule FERC No. 62.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

21. West Texas Utilities Company

[Docket No. ER92-524-000]

May 15, 1992.

Take notice that on May 5, 1992, West Texas Utilities Company (WTU) submitted for filing fourteen (14) executed Delivery Point and Service Specifications sheets providing for various minor changes to the Service Agreements between WTU and Concho Valley Electric Cooperative, Inc., Midwest Electric Cooperative, Inc., Rio Grande Electric Cooperative, Inc. and Stamford Electric Cooperative, Inc., executed under WTU's FERC Electric Tariff, Original Volume No. 1.

WTU states that copies of the filing have been sent to the Public Utility Commission of Texas and the affected full-requirements wholesale customers.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

22. Florida Power & Light Company

[Docket No. ER92-525-000]

May 15, 1992.

Take notice that Florida Power & Light Company (FPL) on May 4, 1992, tendered for filing nine revised Exhibits A which provide for the contract demands for Florida Keys Electric

Cooperaative Association, Inc.; Fort Pierce Utilities Authority; City of Homestead; Utilities Commission, City of New Smyrna Beach; City of Starke; City of Vero Beach and City of Green Cove Springs, and the City of Clewiston under Rate Schedule PR-3 of FPL's FERC Electric Tariff Second Revised Volume No. 1. The proposed effective date for the contract demands for Florida Keys Electric Cooperative Association, Inc.; Fort Pierce Utilities Authority; City of Homestead; Utilities Commission, City of New Smyrna Beach; City of Starke; and City of Vero Beach is May 29, 1992. The proposed effective date for the contract demands for the City of Jacksonville Beach, City of Green Cove Springs and the City of Clewiston is June 1, 1992.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

23. Portland General Electric Company

[Docket No. ER92-513-000]

May 15, 1992.

Take notice that on May 1, 1992, Portland General Electric Company (PGE) tendered for filing a Short-Term Power Sale Agreement between PGE and Pacific Gas and Electric Company.

Copies of this agreement have been served on the distribution list, as included in the filing.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

24. Tucson Electric Power Company

[Docket No. ER92-503-000]

May 15, 1992.

Take notice that on April 29, 1992, Tucson Electric Power Company (Tucson) tendered for filing a Notice of Cancellation of the January 1, 1991, Tucson Rate Schedule FERC No. 81.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

25. Tucson Electric Power Company

[Docket No. ER92-496-000]

May 15, 1992.

Take notice that on April 29, 1992, Tucson Electric Power Company (Tucson) tendered for filing a Notice of Cancellation of the May 1, 1985, Tucson Rate Schedule FERC No. 55.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

26. Tucson Electric Power Company

[Docket No. ER92-497-000]

May 15, 1992.

Take notice that on April 29, 1992, Tucson Electric Power Company (Tucson) tendered for filing a Notice of Cancellation of the May 1, 1986, Tucson Rate Schedule FERC No. 57.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

27. New England Power Company

[Docket No. ER92-512-000]

May 15, 1992.

Take notice that New England Power Company (NEP), on April 30, 1992, tendered for filing the termination of a transmission service agreement with Commonwealth Electric Company under NEP's FERC Electric Service Tariff, Original Volume No. 3.

The service agreement had governed NEP's transmission of electric energy from the Yankee Rowe Nuclear Plant in Rowe, Massachusetts on behalf of Commonwealth Electric Company. Inasmuch as the plant will be shut down permanently, it is no longer necessary for NEP and Commonwealth Electric Company to continue this specific transmission agreement.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

28. Tucson Electric Power Company

[Docket No. ER92-501-000]

May 15, 1992.

Take notice that on April 29, 1992, Tucson Electric Power Company (Tucson) tendered for filing a Notice of Cancellation of the May 16, 1988, Tucson Rate Schedule FERC No. 70.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

29. Florida Power & Light Company

[Docket No. ER92-143-002]

May 15, 1992.

Take notice that on May 11, 1992, Florida Power & Light Company (FP&L) tendered for filing its compliance filing in this docket pursuant to the Commission's order issued on April 10, 1992.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

30. Tucson Electric Power Company

[Docket No. ER92-500-000]

May 15, 1992.

Take notice that on April 29, 1992, Tucson Electric Power Company (Tucson) tendered for filing a Notice of Cancellation of the November 10, 1987, Tucson Rate Schedule FERC No. 68.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

31. Tucson Electric Power Company

[Docket No. ER92-498-000]

May 15, 1992.

Take notice that on April 29, 1992, Tucson Electric Power Company (Tucson) tendered for filing a Notice of Cancellation of the April 1, 1987, Tucson Rate Schedule FERC No. 61.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

32. Public Service Company of New Hampshire

[Docket No. ER92-528-000]

May 15, 1992.

Take notice that on May 4, 1992, Public Service Company of New Hampshire (PSNH) filed an Amendment to its Service Agreement No. 7 under FERC Electric Tariff, First Revised Volume No. 1 for the non-firm transmission service to Connecticut Light and Power Company (CLP). PSNH states that the purpose of the Amendment is to establish CL&P as an Eligible Entity under the Settlement Agreement in Docket Nos. ER89-207-004 and EL91-45-000 currently pending before the Commission. The Amendment is proposed to become effective on January 2, 1992.

Comment date: May 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12135 Filed 5-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-458-000, et al.]

Colorado Interstate Gas Co., et al. Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Colorado Interstate Gas Co.

[Docket No. CP92-458-000]

May 13, 1992.

Take notice that on April 20, 1992, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP92-458-000, a request pursuant to Section 7(b) of the Natural Gas Act and section 157 of the Commission's Regulations for permission and approval to abandon gas sales to Natural Gas Pipeline Company of America (Natural), and to cancel Rate Schedules H-1 and F-1 of CIG's FERC Gas Tariff, Original Volume No. 1, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, CIG proposes to abandon its sales service obligation to Natural in response to and as a consequence of Natural's authorization to abandon its purchase obligations pursuant to the provisions of the Commission's Order Nos. 490 and 490-A. Additionally, CIG has proposed to cancel its Rate Schedules H-1 and F-1 because these rate schedules only apply to sales service for Natural. CIG has requested that the proposed abandonment and cancellation be made effective on September 30, 1989, concurrently with Natural's abandonment of purchase. CIG states that no facilities are to be abandoned as a result of the proposed abandonment of the sales.

Comment date: June 3, 1992, in accordance with Standard Paragraph F at the end of this notice.

2. High Plains Natural Gas Co.

[Docket No. CP92-482-000]

May 13, 1992

Take notice that on May 6, 1992, High Plains Natural Gas Company (High Plains), P.O. Box 777, Canadian, Texas, 79014, a Hinshaw pipeline exempt from the Commission's jurisdiction under section 1(c) of the Natural Gas Act (NGA), filed an application with the Commission in Docket No. CP92-482-000 pursuant to section 7(c) of the NGA for a limited-jurisdiction blanket certificate authorizing the sale, transportation and assignment of natural gas subject to the Commission's jurisdiction under the NGA to the same extent that and in the same manner as intrastate pipelines are authorized to engage in such activities by subparts C, D, and E of part 284 of the Commission's Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

High Plains states that it receives all its gas supplies within or at the boundary of the State of Texas, including gas purchased from an interstate pipeline, and transport and distributes these supplies for ultimate consumption by end users in Texas. It is also stated that High Plains transmission rates and facilities are regulated by the Railroad Commission of Texas.

High Plains avers that it has a cost-of-service firm sales rate for city gate service on file with the Railroad Commission of Texas. High Plains also avers that it elects to use the transmission component of its filed city gate for transportation service and for the transmission component of any sales service under the blanket certificate.

In addition, High Plains states that it agrees to comply with the conditions set forth in § 284.224(e) of the regulations and understands that any transaction authorized under a blanket certificate shall be subject to subparts C, D, and E of part 284 of the regulations.

Comment date: June 3, 1992, in accordance with Standard Paragraph F at the end of the notice.

3. K N Energy, Inc.

[Docket No. CP92-488-000]

May 14, 1992.

Take notice that on May 8, 1992, K N Energy, Inc. (K N), P.O. Box 281304, Lakewood, Colorado 80228, filed in Docket No. CP92-488-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to construct and operate sales taps for the delivery of gas to end users under the certificate issued in Docket No. CP83-140-000, *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

K N requests authorization to construct and operate 18 sales taps to end users located in Franklin, Phelps, Thayer, Clay, Howard, Sherman, Seward, Pierce, York, Boone and Adams Counties, Nebraska; and Thomas, Wallace, Ellis and Scott Counties, Kansas. K N states that the natural gas delivered through the taps will ultimately be consumed by end users serviced directly from K N's general system supply. K N states that the end use of the natural gas will be for irrigation, grain dryer, domestic and commercial purposes. K N estimates the cost of the proposed facilities to be $18,950, of which a portion of the cost will be reimbursed to K N.

Comment date: June 29, 1992, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Co.

[Docket No. CP92-489-000]

May 14, 1992.

Take notice that on May 8, 1992, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP92-489-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to add an additional delivery point under Tennessee's blanket certificate issued in Docket No. CP82-413-000 pursuant to section 7 of the Natural Gas Act, as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that it currently provides a natural gas service to Pike Natural Gas Company (Pike) pursuant to a firm sales contract dated January 26, 1982, and under Tennessee's Rate Schedule GS-4. It is stated that, in accordance with a request by Pike, Tennessee proposes to add an existing delivery point at Brown's Run, Morgan County, Ohio, as a delivery point under the contract. Tennessee advises that there would be no new facilities involved. It is further stated that (a) the maximum delivery of gas at Brown's Run would be limited to 5,212 dekatherms equivalent per day, and (b) the total maximum quantity under the contract would remain at 5,212 dekatherms per day.

Comment date: June 29, 1992, in accordance with Standard Paragraph G at the end of this notice.

5. Columbia Gas Transmission Corp.

[Docket No. CP92-483-000]

May 14, 1992.

Take notice than on May 7, 1992, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP92-483-000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate additional points of delivery for existing wholesale customers under its blanket certificate issued in Docket No. CP83-76-000

pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia requests authorization to construct and operate the facilities necessary to provide seven additional points of delivery, as follows:

Wholesale customers	Commercial	Residential	Industrial	Estimated annual volumes Dth
Columbia Gas of Kentucky, Inc		1		150
Columbia Gas of Ohio, Inc		6		900

Columbia states that the proposed additional points of delivery have been requested by its wholesale customers for residential service. Columbia further states that the quantities to be provided through the new delivery points are within its currently authorized level of service and will be within existing peak day and annual proposed seasonal entitlements of such customers.

Comment date: June 29, 1992, in accordance with Standard Paragraph G at the end of this notice.

6. ANR Pipeline Co.

[Docket No. CP92-487-000]

May 14, 1992.

Take notice that on May 8, 1992, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP92-487-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to operate existing delivery facilities located in Lake County, Indiana as a new delivery point for Northern Indiana Public Service Company (NIPSCO), an existing sales customer of ANR.

It is stated that the herein facilities, the Crown Point facilities, were originally constructed to connect NIPSCO to ANR and consist of 8.9 miles of 20-inch pipeline with metering and appurtenant facilities located in Lake County, Indiana. It is further stated that ANR owns 4.45 miles of pipeline and NIPSCO owns the remaining 4.45 miles of the pipeline comprising the Crown Point Facilities. ANR states that the facilities were constructed during the period of October 1989 to January 1990, at a cost to ANR of $7.1 million for its portion. It is stated that the facilities have a capacity of 200,000 dekatherms of natural gas per day.

ANR states that it proposes to utilize the existing facilities to effect sales deliveries to NIPSCO. ANR states that it currently performs sales service to NIPSCO pursuant to Rate Schedule CD-1 of ANR's FERC Gas Tariff, Original Volume No. 1. ANR states that NIPSCO requested tht new delivery point in order to enhance the operational flexibility and reliability of its distribution system. ANR farther states that since the availability of the additional delivery point will not change NIPSCO's peak and annual entitlements, the service will not impact on ANR's ability to meet its sales service obligations to NIPSCO.

Comment date: June 29, 1992, in accordance with Standard Paragraph G at the end of this notice.

7. Natural Gas Pipeline Co.

[Docket No. CP92-485-000]

May 14, 1992.

Take notice that on May 8, 1992, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed a request pursuant to § 157.205 and 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to enlarge an existing delivery point in Mahaska County, Iowa, for the purpose of delivering additional volumes of natural gas to Iowa-Illinois Gas and Electric Company (Iowa-Illinois), a local distribution company, under Natural's blanket certificate issued September 1, 1992, in Docket No. CP82-402-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural states that Iowa-Illinois would use the gas received as part of its system supply. It is stated that the new facilities would be used to provide jurisdictional services, including transportation services under Subpart G of Part 284 of the Commission's Regulations. Natural states that the facilities could also be used to provide transportation under Part 284, Subpart B.

Natural is requesting permission to install dual 8-inch taps on its 26-inch and 36-inch Amarillo lines and a 6-inch meter facility in Section 3, Township 75 North, Range 15 West, Mahaska County, Iowa. It is further stated that these facilities would be in addition to the exisiting facilities making up the delivery point. It is also stated that the estimated total cost of the new facilities is $226,590. Natural states that it has sufficient capacity to provide these services at the proposed delivery point without detriment or disadvantage to Natural's peak day and annual delivery capacity. Natural states that the quantity of gas to be delivered to the delivery point is up to 30,500 Mcf per day of natural gas.

Natural states that it does not propose to increase or decrease the total daily and/or annual quantities it is authorized to deliver to Natural Fuel. Natural asserts that the establishment of the proposed new delivery point is not prohibited by Natural's currently effective tariff and that it has sufficient capacity to accomplish the deliveries at the proposed new delivery point without detriment or disadvantage to any of Natural's other customers.

Comment date: June 29, 1992, in accordance with Standard Paragraph G at the end of this notice.

8. Northern Natural Gas Co.

[Docket No. CP92-486-000]

May 14, 1992.

Take notice that on May 8, 1992, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP92-486-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a delivery point for service to Lloyd V. Crum, Jr. (LVC), a local distribution company, for redelivery to the community of Sargeant, Minnesota, under Northern's blanket certificate issued in Docket No. CP82-401-000, all as more fully described in the request which is on file with the Commission and open to public inspection.

Northern requests authorization to install the delivery point to accomodate the sale of gas to LVC made by Northern under its GS-1 and ISS-1 Rate Schedules. It is stated that LVC has requested the new delivery point to accomodate the expansion of its

distribution system into new areas. It is asserted that the proposed delivery point would be used to deliver 60 Mcf of gas on a peak day and 2,755 Mcf on an annual basis and that the end uses would be residential and commercial. It is further asserted that these volumes are within LVC's current entitlement from Northern. Northern explains that the volumes would come from the firm sales entitlement currently assigned to the community of Racine, Minnesota. The cost of the proposed delivery point is estimated at $15,000.

Comment date: June 29, 1992, in accordance with Standard Paragraph G at the end of this notice.

9. Redstone Oil & Gas Co., et. al.

[Docket No. CS92-6-000]

May 15, 1992.

Take notice that on May 11, 1992, Redstone Oil & Gas Company *et. al.*[1] (Redstone) 8235 Douglas Ave., suite 1050, Dallas, Texas 75225, filed an application requesting a small producer certificate of public convenience and necessity. Redstone requests authorization to make sale for resale of natural gas in interstate commerce as set forth in its application which is on file with the Commission and open to public inspection.

Comment date: May 27, 1992, in accordance with Standard Paragraph J at the end of this notice.

10. Encogen Northwest, L.P. Partnership

[Docket No. CI92-43-000]

May 15, 1992.

Take notice that on May 7, 1992, Encogen Northwest, L.P. (Encogen) of 10375 Richmond Avenue, suite 1575, Houston, Texas 77042 filed an application under sections 4 and 7 of the Natural Gas Act (NGA) for an unlimited-term blanket certificate with pregranted abandonment. Encogen requests authority to make sales for resale in interstate commerce of: All NGPA categories of natuaral gas subject to the Commission's NGA jurisdiction; imported natural gas; natural gas sold under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales of surplus system supply gas; and natural gas purchased from intrastate pipelines and local distribution companies, without rate restrictions. Encogen's application is on file with the Commission and open for public inspection.

Comment date: May 29, 1992, in accordance with Standard Paragraph J at the end of this notice.

[1] The other parties are R.D. Smith, Eric Luck and Eddy Claycomb.

11. Panhandle Eastern Pipe Line Co.

[Docket No. CP92-484-000]

May 15, 1992.

Take notice that on May 8, 1992, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP92-484-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service provided by Panhandle for Kansas Power and Light Company (KPL), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that it is providing an interruptible transportation service of up to 25,000 Mcf of natural gas per day for KPL pursuant to certificate authorization granted in Docket No. CP84-151-000, *et. al.*, and a gas transportation agreement dated August 12, 1983, on file with the Commission as Panhandle's Rate Schedule T-57. Panhandle further states that it receives the natural gas for KPL from Phillips Petroleum Company in Kingfisher County, Oklahoma and redelivers the natural gas to KPL in Reno County, Kansas.

Panhandle asserts that it has notified KPL by letter dated April 28, 1992, that it intends to terminate the transportation service pursuant to Article IV of the transportation agreement, effective September 30, 1992.

Comment date: June 5, 1992, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12130 Filed 5-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF92-86-000]

Lavair Cogeneration Limited Partnership; Amendment to Filing

May 18, 1992.

On May 14, 1992, Lavair Cogeneration Limited Partnership tendered for filing an amendment to its filing in this docket.

The amendment provides additional information pertaining to the ownership structure of its cogeneration facility and ownership of its steam host. No determination has been made that the submittal constitutes a complete filing.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed by June 2, 1992 and must be served on the Applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12134 Filed 5-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-5-59-003]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

May 18, 1992

Take notice on May 11, 1992, Northern Natural Gas Company (Northern) tendered for filing the following tariff sheets as part of its FERC Gas Tariff:

Third Revised Volume No. 1

3 Sub Sixty-Eighth Revised Sheet No. 4A
3 Substitute 105 Revised Sheet No. 4B
3 Sub Seventy-Third Rev Sheet No. 4B.1

Northern states that on April 10, 1992, the Commission issued an order in Docket No. TQ92-5-59-001. The order, directed Northern to file corrected market area demand rates based on a change from an allocation factor of .971851 to an allocation factor of .963525 and provide additional information to support the billing determinants as filed in Docket Nos. TQ92-5-59-000 and TQ92-5-59-001.

Northern states that it has revised filed revised tariff sheets, and other data required in fullfillment of the April 10, 1992 and May 6, 1992 letter orders.

Northern further states that copies of the letter and enclosed tariff sheets have been mailed to each gas sales customer and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 26, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12131 Filed 5-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-171-000 and TA92-1-17-005]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 18, 1992.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on May 14, 1992 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Original Sheet No. 51E
Fifth Revised Sheet No. 401
Third Revised Sheet No. 450
Sixth Revised Sheet No. 526
Sixth Revised Sheet No. 527
Sixth Revised Sheet No. 528
Sixth Revised Sheet No. 529-599

The proposed effective date of these revised tariff sheets is the first day of the first month following Commission approval of the tariff sheets. In order for Texas Eastern to implement the tariff provision proposed as soon as possible, Texas Eastern requests the Commission to issue promptly an order approving the tariff sheets submitted and requests a waiver of the thirty-day notice period, if required. Texas Eastern respectfully requests waiver of any other rules and regulations that the Commission may deem necessary to accept this filing and make the above tariff sheets effective as requested by Texas Eastern.

Texas Eastern states that the tariff sheets are being filed in compliance with Ordering Paragraph (B) of the Commission's Order Accepting and Suspending Tariff Sheets, Subject to Refund and Conditions, and Establishing Technical Conference issued January 31, 1992 (January 31 order) in the subject dockets and pursuant to section 4 of the Natural Gas Act. Texas Eastern states that in compliance with the Commission's directive in the January 31 order Texas Eastern proposes herein to cure any potential cross-subsidization between sales and transportation service on its system by revising its PGA provision and initiating a new tariff provision, Applicable Shrinkage Adjustment (ASA), which will exactly track fuel requirements for transportation service on Texas Eastern's system through its fuel reimbursement mechanisms.

Texas Eastern states that copies of its filing have been served on all Authorized Purchasers of Natural Gas from Texas Eastern and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 26, 1992. Protests will be considered by the Commission in determining the approprite action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12133 Filed 5-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-5-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 18, 1992.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on May 8, 1992 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Forty-first Revised Sheet No. 50.1
Forty-fifth Revised Sheet No. 50.2
Thirtieth Revised Sheet No. 50A.1
Thirtieth Revised Sheet No. 50B.1
Thirty-first Revised Sheet No. 50C.1
Thirty-first Revised Sheet No. 50D.1

The proposed effective date of these revised tariff sheets is May 1, 1992.

Texas Eastern states that these tariff sheets are being filed pursuant to section 23, Purchased Gas Cost Adjustment contained in the General Terms and Conditions of Texas Eastern's FERC Gas Tariff and pursuant to Order No. 483 issued November 10, 1987 in Docket No. RM86-14. As contemplated in Docket No. RM86-14 and Order No. 483, this filing constitutes an out-of-cycle PGA rate increase. Texas Eastern states that in compliance with § 154.308(b)(2) of the Commission's Regulations, a report containing detailed computations for the derivation of the current adjustment to be applied to Texas Eastern's effective rates is enclosed in the format as prescribed by FERC Form No. 542-PGA (Revised) and FERC's Notice Of Criteria For Accepting Electronic PGA Filings dated April 12, 1991.

Texas Eastern states that it originally filed this out-of-cycle PGA filing on April 29, 1992 in Docket No. TQ92-4-17. By letter order dated May 6, 1992 the Commission rejected the electronic PGA filing due to failure to conform to the requirements of Exhibit C of Form 542-PGA. Texas Eastern states that it will provide a copy of the May 6, 1992 rejection letter to each party which received notification of the April 29, 1992 filing under § 154.16.

Texas Eastern states that the change proposed in this out-of-cycle PGA filing is a commodity sales rate increase of $0.2876/dth based upon the change in Texas Eastern's projected May 1992 through July 1992 quarterly cost of purchased gas from Texas Eastern's May 1, 1991 quarterly PGA in Docket No. TQ92-3-17 filed on March 31, 1992. Texas Eastern states that the projected commodity gas costs reflected in this filing are the result of the ongoing efforts by Texas Eastern, in both the short term and long term, to secure gas supplies at the lowest reasonable cost consistent with contractual obligations and security of supply for the customers.

Texas Eastern states that copies of its filing have been served on all Authorized Purchasers of Natural Gas from Texas Eastern and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 26, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on a file with the Commission and are available for public inspection in the public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12132 Filed 5-22-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Arms Control and Nonproliferation Policy

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangements to be carried out under the above-mentioned agreements involve approval of the following retransfers: RTD/JA(EU)-61, for the transfer from the Federal Republic of Germany to Japan of fuel elements for the JMTR test reactor, containing 180.45 kilograms of uranium enriched to 19.95 percent in the isotope uranium-235, and RTD/JA(EU)-62, for the transfer from the Federal Republic of Germany to Japan of fuel elements for the JRR-3 research reactor, containing 124.2 kilograms of uranium enriched to 19.95 percent in the isotope uranium-235.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on May 20, 1992.

Salvador N. Ceja,

Acting Director, Office of Nuclear Nonproliferation Policy.

[FR Doc. 92-12206 Filed 5-22-92; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Australia concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/AU(EU)-7, for the transfer of 21.750 kilograms of uranium, enriched to approximately 60 percent in the isotope-235 contained in 150 uranium/aluminum fuel elements for use in the HIFAR research reactor, from the United Kingdom to Australia.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on May 19, 1992.

Salvador N. Ceja,

Acting Director, Office of Nuclear Nonproliferation Policy.

[FR Doc. 92-12210 Filed 5-22-92; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of American and the Government of

Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval for the following retransfer: RTD/SW(EU)–152, for the return of 4 test reactor assemblies from France to Sweden following repair. The assemblies contain 8.284 kilograms of uranium, enriched to 19.84 percent in the isotope uranium-235, and are to be used in the R–2 test reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on May 20, 1992.

Salvador N. Ceja,

Acting Director, Office of Nuclear Nonproliferation Policy.

[FR Doc. 92–12207 Filed 5–22–92; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket No. 91–71–NG]

Northern States Power Co. (Wisconsin); Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Department of Energy; Office of Fossil Energy.

ACTION: Notice of an order granting long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Northern States Power Company (Wisconsin) authorization to import up to 7,500 Mcf of Canadian natural gas per day over a ten-year period commencing on the later of November 1, 1992, or the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 18, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–12208 Filed 5–22–92; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00320; FRL–4068–6]

State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 3–day meeting of the State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees on Enforcement and Certification, and Registration and Classification. This notice announces the location and times for the meetings and sets forth tentative agenda topics. The meetings are open to the public.

DATES: The SFIREG Working Committee on Enforcement and Certification will meet on Wednesday, June 3, 1992, from 8:30 a.m. to 4 p.m. On Thursday, June 4, 1992, there will be a joint meeting of the Enforcement and Certification Working Committee and the Working Committee on Registration and Classification to discuss issues of mutual interest. This meeting will begin at 8:30 a.m. and adjourn at approximately 4 p.m. The Working Committee on Registration and Classification will meet on Friday, June 5, 1992, beginning at 8:30 a.m. and adjourning at approximately 4 p.m.

ADDRESSES: The meetings will be held at: Red Lion Hotel - Columbia River, 1401 North Hyden Island Drive, Portland, Oregon, (503) 283–4718.

FOR FURTHER INFORMATION CONTACT: By mail: Arty Williams, Office of Pesticide Programs (H7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1105, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7371.

SUPPLEMENTARY INFORMATION: The tentative agenda of the Working Committee on Enforcement and Certification includes the following topics:

1. Enforcement discretion guidance on the use of 2,4–D.

2. Discussion of the lack of analytical methodology for non-target plants, and the effect of this lack on enforcement cases.

3. Discussion of the 1990 Farm Bill recordkeeping proposed regulations.

4. Discussion of the successes and failures of current policies regarding bulk repackaging and enforcement implications.

5. Discussion of the Certification and Training funding formula for State programs.

6. Discussion of including nitrogen/fertilizer information into the private applicator training programs to emphasize water quality and worker protection issues involving nitrogen/fertilizer.

7. Other topics as appropriate.

The tentative agenda of the joint meeting of the Enforcement and Certification, and the Registration and Classification Working Committees includes the following:

1. Discussion of Section 18 use for environmentally preferable pesticides.

2. Discussion of the allocation for equipment funds for pesticide laboratories.

3. Discussion of issues involving the availability of analytical standards.

4. Discussion of analytical capabilities relative to new EPA initiatives.

5. State responsibilities for enforcing product cancellations due to lack of maintenance fee payment.

6. Label interpretations for worker protection labeling.

7. Other topics as appropriate.

The tentative agenda of the Registration and Classification Working Committee includes the following topics:

1. Discussion of EPA FIFRA section 18 guidance document.

2. Repeat section 18's and alternative pest management strategies.

3. Presentation of a revised issue paper on plantback restrictions.

4. Presentation of a revised issue paper on termiticides and FIFRA section 2(ee).

5. Report on the NPIRS Users Meeting.

6. Complexities associated with company mergers and registration numbers.

7. Other topics as appropriate.

Dated: May 14, 1992.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 92–12175 Filed 5–22–92; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1891]

Petitions for Reconsideration and Clarification and a Motion for Stay of Actions in Rule Making Proceedings

May 19, 1992.

Petitions for reconsideration and clarification and motion for stay have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452–1422. Oppositions to these petitions must be filed June 10, 1992. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Cable Television Technical and Operational Requirements (MM Docket No. 91–169)

Review of The Technical and Operational Requirement of part 76, Cable Television. (MM Docket No. 85–38) Number of Petitions Received: 7

Motion for Stay

Number of Motions Received: 1

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–12095 Filed 5–22–92; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM docket No.
I		
A. Deas Communications, Inc.; Healdsburg, CA.	BPH–910208MB	92–111
B. Dragonfly Communications, Inc.; Healdsburg, CA.	BPH–910211MA	
C. Healdsburg Broadcasting, Inc.; Healdsburg, CA.	BPH–910211MB	
D. Beckwith Communications, Inc.; Healdsburg, CA.	BPH–910211MI	
E. Desert Rock Limited Partnership; Healdsburg, CA.	BPH–910211ML	
F. Healdsburg Empire Corp.; Healdsburg, CA.	BPH–910212MM	
G. R.W. Communications; Healdsburg, CA.	BPH–910211MJ (previously dismissed).	

Issue heading and applicant(s)

1. Alien Ownership or Control; D
2. Contingent Environmental; B, C, D, E, F
3. Comparative; A, B, C, D, E, F
4. Ultimate; A, B, C, D, E, F

II		
George G. Kerrigan and George W. Estess d/b/a/ Kerress Broadcasting; Fernandina Beach, FL.	BPH–891130MJ	91–17

Issue Heading

1. Comparative
2. Ultimate

2. Pursuant to section 309(e) of the Commissions Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth above. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding heading at 51 FR 19,347, May 29, 1986. The letter shown before each applicant's name, above, is used above to signify whether the issue in question applies to that particular applicant.

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036 (telephone 202–452–1422).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 92–12219 Filed 5–22–92; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Coastal Barrier Improvement Act; Property Availability: City Park Road Tract(s), Austin, TX

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the "City Park Road tract" located in Austin, Texas is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written Notices of Serious Interest to purchase or effect other transfer of the property may be mailed or faxed to the Federal Deposit Insurance Corporation until August 24, 1992.

ADDRESSES: Copies of detailed descriptions of the property can be obtained by contacting the following person: Gary Hill, FDIC, Addison Consolidated Office, P.O. Box 802090, Dallas, Texas 75380, telephone (214) 385–4770, Fax (214) 788–7635.

SUPPLEMENTARY INFORMATION: The subject properties, consisting of six tracts and containing approximately 135 acres, are located in the northwestern section of Austin, west of Loop 360, south of City Park Road, on the west bank of Lake Austin, Travis County, Texas at Continental Map Grid L28–M28.

Written notice of serious interest to purchase the property must be received on or before August 24, 1992 by Gary Hill at the above address.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the federal government;

2. Agencies or entities of state or local government; and

3. "Qualified organizations" pursuant to section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(s)).

Form of Notice

Notices of serious interest should be in the following form: Notice of Serious Interest re: City Park Road Land Tract, Austin, Texas.

1. Name of eligible entity.

2. Declaration of eligibility to submit notice under criteria set forth in Public Law 101–591, section 10(b)(2).

3. Brief description of proposed terms of purchase or other offer (e.g. price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space,

recreational, historical cultural or natural resources conservation purposes.

Dated: May 15, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-12122 Filed 5-22-92; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act; Property Availability: Dixie Mallard Farms

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Dixie Mallard Farms—Legal Description: The Northwest Quarter (NW/4) of Section 2, and the North Half (N/2) of Section 3, all in Township 19 North, Range 15 West, Caddo Parish, Louisiana, containing approximately 502.99 Acres, more or less, together with all buildings and improvements located thereon, as more fully shown on map of survey by Marvin T. Kent, Registered Surveyor, dated June 5, 1985.

DATES: Written Notice of Serious Interest to purchase or effect other transfer of the property may be mailed or faxed to the Federal Deposit Insurance Corporation until August 24, 1992.

ADDRESSES: Copies of detailed descriptions of the property can be obtained by contacting the following person: Douglas Gleghorn, FDIC, P.O. Box 30060, Shreveport, Louisiana, 71130-0060, Telephone 1-800-283-3342, FAX (318) 683-7388.

SUPPLEMENTARY INFORMATION: Characteristics of the property include: Classification as 50% wetlands; adjacent to Soda Lake State Wildlife Management Area. *Property Size:* 502 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before August 24, 1992 by Douglas Gleghorn at the above address.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the federal government;

2. Agencies or entities of state or local government; and

3. "Qualified organizations" pursuant to section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(s)).

Form of Notice

Notices of serious interest should be in the following form: Notice of Serious Interest re: Dixie Mallard Farms, Caddo Parish, Louisiana.

1. Name of eligible entity.

2. Declaration of eligibility to submit notice under criteria set forth in Public Law 101-591, section 10(b)(2).

3. Brief description of proposed terms of purchase or other offer (e.g. price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical cultural or natural resources conservation purposes.

Dated: May 15, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-12123 Filed 5-22-92; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Port of Oakland/Matson Terminals; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in section 560.6 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224-001953-009.

Title: Port of Oakland/Matson Terminals Terminal Agreement.

Parties:

City of Oakland ("the Port").

Matson Terminals, Inc. ("Matson").

Filing Party: John E. Noland, Esq., Assistant Port Attorney, 530 Water Street, Oakland, California 94607.

Synopsis: The amendment provides that the land Matson leases from the Port at the Port's 7th Street Terminal will be reconfigured. It also provides for future construction affecting the leased premises and the performance of work related to the relocation of Matson's terminal entrance. Matson will enjoy a net gain of .64 acre of land as a result of this change.

Dated: May 19, 1992.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-12137 Filed 5-22-92; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Seafrigo USA Inc., 214 W. 29th St., suite 1602-B, New York, NY 10001
Officers:
Eric Barbe, President/Director
Jacques Jean Campion, Vice President
Verene Grigoletto-Lai, Secretary

Spring Forwarders, Inc., 720 3rd Ave., suite 2110, Seattle, Washington 98104
Officers:
Jocelyn. Roemer-Patchen, President/Director
Jeanine M. Stanifer, Vice President

Litoral Air & Sea Freight, Inc., 8284 NW 68th Street, Miami, FL 33166
Officers:
Luis Herize, Director/Stockholder
Almacenadora Caraballeda, Director/Stockholder

I.C.S. Cargo Service, Inc., 1372 Northwest, 78th Ave., Miami, FL 33126
Officer: Esther Donn, President/Director/Shareholder

Grace Chen, dba Puma Express, Inc., 631 Route 83, suite 105, Bensenville, IL 60106
Officers:
Eric Chang, President
Grace Chen, Vice President/Treasurer
Mei-Ling Chang, Secretary

Ocean Cargo Line, Inc., dba Total Transport International, 550 Division Street, Elizabeth, NJ 07201
Officer: Darren J. DeGregorio, Pres./Dir./Sec./V. Pres./Treas.

Regina G. Derbin dba Lacs Forwarding, 806 Lemons Drive, Cedar Hill, TX 75104
Sole Proprietor:
Big Abe No. 1 Inc., dba Big Abe No. 1 Auto Sales, 9200 N. Western., Oklahoma City, OK 73114
Officers:
Ibrahim K. El-Samad, President
Yahya K. El-Samad, Vice President
Mohammad K. El-Samad, Treasurer
Norma J. El-Samad, Secretary
PBB USA Inc. and F.H. Fenderson Division of PBB USA Inc., 434 Delaware Ave., Buffalo, NY 14202
Officers:
Glenn A. Brown, President/Director/Stockholder
Danny Weaver, Vice President/Director/Stockholder
John McCready, Vice President/Director/Stockholder
George Lorking, Vice President/Director/Stockholder
Claudio Pilato, Executive Vice President/Director
Edimar International Corporation, 2040 SW. 139 Ct., Miami, FL 33175
Officer: Eduardo D. Frejomil, President
ICC Products Inc., dba ICC Cargo Services, 6854 NW. 77th Ct., Miami, FL 33166
Officer: Carlos E. Infante, President/V. President/Secre./Treas.
Multi-Modal International, Inc., 148-36 Guy R. Brewer Blvd., Jamaica, NY 11434
Officers:
Ernest G. Wohlwill, President
Shirle W. Wohlwill, Secretary
Danco Freight Forwarding Co., 163 Deertract Lp., Stoneville, NC 27048
Sole Proprietor: Aleta W. Vernon
M.J. Shea & Co., Inc., 2011 Cross Beam Drive, Charlotte, NC 28217
Officers:
Michael J. Shea, President
Carla D. Shea, Secretary/Treasurer
Barbara L. Scarborough, Vice President
Theodore S. Hoffman, Jr., Assistant Secretary
Omega Customs Brokers Inc., 5209 NW. 74th Ave., suite 216, Miami, FL 33166
Officers:
Ralph Ronderos, President/Director
Gloria Stella Ronderos, Secretary
Jose Rafel Ronderos, Treasurer
Surdem International, 25 Neptune Blvd., Apt. 3N, Long Beach, NY 11561
Suren K. Demirjian, Sole Proprietor
Laufer Freight Lines Ltd., 33 Rector Street, 8th Floor, New York, NY 10006
Officers:
Mark Laufer, President/Treasurer
Chris Karalekas, Secretary
Unit International of Miami, Inc., 656 South Drive, Miami, FL 33166 .
Officers:
Milton F. Whelan, President/Director/Stockholder
Warren P. Powers, Chairman/Director/Stockholder
Edward T. Chappell, Secretary/Director
Juan J. Rodriguez, Vice President—Operations
Erin L. Crockett, Vice President—Export/Asst. Sec.
United Transport Service, Inc., UTS Express Line, 850 Dillon Drive, Wood Dale, IL 60191
Officer: Suncook Simon Chong, Pres./Dir./Treas./V. Pres.
International Cargo Systems, Inc., 440 McClellan Highway, East Boston, MA 02128
Officers:
Dana A. Goodwin, Jr., President
William J. Courtney, Vice President
Laura Jeanne Rogers, Director

Dated: May 19, 1992.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-12124 Filed 5-22-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Boatmen's Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 19, 1992.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Boatmen's Bancshares, Inc., St. Louis, Missouri; to acquire 100 percent of the voting shares of Sunwest Financial Services, Inc., Albuquerque, New Mexico, and thereby indirectly acquire Sunwest Bank of Albuquerque, N.A., Albuquerque, New Mexico, Sunwest Bank of Clovis, N.A., Clovis, New Mexico, Sunwest Bank of Rio Arriba, N.A., Espanola, New Mexico, Sunwest Bank of Farmington, Farmington, New Mexico, Sunwest Bank of Gallup, Gallup, New Mexico, Sunwest Bank of Hobbs, N.A., Hobbs, New Mexico, Sunwest Bank of Las Cruces, N.A., Las Cruces, New Mexico, Sunwest Bank of Raton, N.A., Raton, New Mexico, Sunwest Bank of Sandoval County, N.A., Rio Rancho, New Mexico, Sunwest Bank of Roswell, N.A., Roswell, New Mexico, Sunwest Bank of Santa Fe, Santa Fe, New Mexico, Sunwest Bank of Grant County, Silver City, New Mexico, and Sunwest Bank of El Paso, El Paso, Texas.

In connection with this application, Applicant also proposes to acquire SFSI Insurance Company, Albuquerque, New Mexico, and thereby engage in the sale and underwriting or reinsurance of credit insurance limited to assuring the repayment of the outstanding balance of extensions of credit made by the subsidiary banks of Sunwest Financial Services, Inc., Albuquerque, New Mexico, in the event of death, disability, and/or involuntary unemployment of the debtor, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 19, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-12167 Filed 5-22-92; 8:45 am]

BILLING CODE 6210-01-F

First Security Financial Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR

225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 19, 1992.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First Security Financial Corporation, Salisbury, North Carolina; to acquire Capital Group, Inc., Salisbury, North Carolina, and thereby indirectly acquire OMNIBANK, a Federal Savings Bank, Salisbury, North Carolina, Citizens Savings, F.S.B., Concord, North Carolina, and Home Federal Savings Bank, Kings Mountain, North Carolina, and thereby engage in deposit taking, lending and other thrift activities that are permissible for thrift subsidiaries of bank holding companies, pursuant to § 225.25(b)(9) of the Board's Regulation Y; the sale of credit insurance when the insurance coverage sold is directly related to an extension of credit by the institution and the insurance coverage is limited to assuring the repayment of the outstanding balance due on the extension of credit in the event of the death or disability of the borrower, pursuant to § 225.25(b)(8) of Regulation Y; and the issuance and sale of travelers checks and savings bonds, pursuant to § 225.25(b)(12) of Regulation Y; First Cabarrus Corporation, Salisbury, North Carolina, and thereby perform real estate appraisals, pursuant to § 225.25(b)(13) of Regulation Y. First Cabarrus Corporation will continue to provide securities brokerage services through a program with INVEST Financial Corporation, solely as agent for the account of customers, pursuant to §§ 225.25(b)(4) and (15) as amended pursuant to a notice of proposed rule making published in 55 FR 36282, September 5, 1990, including any amendments that may be incorporated in the final rule, pursuant to §§ 225.25(b)(4) and (15) of Regulation Y.

Board of Governors of the Federal Reserve System, May 19, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-12168 Filed 5-22-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research; Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C. appendix 2), announcement is made of the following advisory subcommittee scheduled to meet during the month of May 1992:

Name: Family Primary Care Minder, Advisory Subcommittee.

Dates and Times: May 27-28, 1992, 8:30 a.m.

Place: Parklawn Building, 5600 Fishers Lane, Conference Room L, Rockville, Maryland 20857.

This meeting will be closed to the public.

Purpose: The Subcommittee's charge is to provide, on behalf of the Health Care Policy and Research Contracts Review Committee, advice and recommendations to the Secretary and to the Administrator, Agency for Health Care Policy and Research (AHCPR) regarding the scientific and technical merit of contract proposals submitted in response to a specific Request for Proposals. The purpose of this contract in Phase I is to determine the feasibility of developing a computer based system that would assist families to integrate a primary care prevention plan into their health management activities. During Phase II a prototype system would be fully developed and beta tested. The resulting system will have the capability of predicting primary care prevention and early detection needs allowing a family to obtain services in a routine manner versus crisis oriented health care.

* * * * *

Agenda: The session of this Subcommittee will be devoted entirely to the technical review and evaluation of contract proposals submitted in response to a specific Request for Proposals. The Administrator, AHCPR, has made a formal determination that this meeting will not be open to the public. This is necessary to protect the free exchange of views and avoid undue interference with Committee and Department operations, and safeguard confidential proprietary information and personal information concerning individuals associated with the proposals that may be revealed during the sessions. This is in accordance with section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. appendix 2, Department regulations, 45 CFR 11.5(a)(6), and procurement regulations, 48 CFR 315.604(d).

Anyone wishing to obtain information regarding this meeting should contact Karen Harris, Office of Management, Management Systems and Services Branch, Agency for Health Care Policy and Research, Executive Office Center, 2101 E. Jefferson Street, Suite 601, Rockville, Maryland 20852, (301) 227-8441.

Agenda items are subject to change as priorities dictate.

Dated: May 18, 1992.

Risa J. Lavizzo-Mourey,

Acting Administrator, AHCPR.

[FR Doc. 92-12223 Filed 5-22-92; 8:45 am]

BILLING CODE 4160-90-M

Agency for Toxic Substances and Disease Registry

[ATSDR-44]

Availability of Public Health Assessment Guidance Manual

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the availability of the ATSDR Public Health Assessment Guidance Manual. ATSDR is mandated to conduct public health assessments at all sites on, or proposed for inclusion on, the National Priorities List (NPL) and may also conduct public health assessments in response to a request from the public or as an evaluation of active waste sites and landfills.

ADDRESSES: The Public Health Assessment Guidance Manual is now available to the public by mail from the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, or by telephone at (703) 487-4650.

There is a charge, determined by NTIS, for the manual. The NTIS order number for this document is PB92–147164.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., Director, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

SUPPLEMENTARY INFORMATION: ATSDR is required by section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to conduct health assessments at all sites on, or proposed for inclusion on, the NPL (42 U.S.C. 9604(i)(6)(A)) and may also conduct health assessments in response to a request from the public (42 U.S.C. 9604(i)(6)(B)). In addition, the Environmental Protection Agency may request the conduct of a health assessment under the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6939a(b)).

The general procedures for the conduct of public health assessments are included in the ATSDR regulation "Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities" (42 CFR part 90).

The ATSDR public health assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any current or future impact on public health, develop health advisories or other recommendations, and identify studies or actions needed to evaluate, mitigate, or prevent human health effects.

The ATSDR public health assessment includes an analysis and statement of the public health implications posed by the site under consideration. This analysis generally involves an evaluation of relevant environmental data, health outcome data, and community health concerns associated with a site where hazardous substances have been released. The public health assessment also identifies populations living or working on or near hazardous waste sites for which more extensive public health actions or studies are indicated.

The Public Health Assessment Guidance Manual sets forth in detail the public health assessment process as developed by ATSDR and clarifies the methodologies and guidelines used by ATSDR staff and agents of ATSDR in conducting the assessments. The manual is not intended to supplant the professional judgment and discretion of the health assessor (or public health assessment team) compiling and analyzing data, drawing conclusions, and making public health recommendations. Instead, the manual offers a logical approach for evaluating the public health implications of hazardous waste sites, while still allowing the health assessor to develop new approaches to the process and apply the most current and appropriate science and methodology.

This notice announces the availability of the final manual. The manual has undergone extensive internal review, has been subjected to scientific and technical peer review by experts both within and outside the federal government, and was available for public comment from August 31, 1990, through October 29, 1990, (55 FR 35463, August 30, 1990).

Dated: May 18, 1992.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 92–12150 Filed 5–22–92; 8:45 am]

BILLING CODE 4160–70–M

Centers for Disease Control

[Announcement Number 222]

Availability of Funds for Fiscal Year 1992; Epidemiologic Research Studies of Acquired Immunodeficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) Infection

Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces a program for competitive cooperative agreement and/or research project grant applications to conduct epidemiologic research studies of AIDS and HIV infection. These include studies of: Perinatal HIV transmission; special surveillance studies of children infected or exposed to HIV; the natural history of HIV infection in selected populations; and behavioral studies of HIV-infected youth and families. The study of these research areas as they pertain to minority populations: Black; African-American; Caribbean; Hispanic: Central American, Mexican American, Puerto Rican; Asian; Pacific Islander; and Native American is encouraged because minorities constitute over 45% of all reported cases of AIDS.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of HIV infection. (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information.)

Authority

This program is authorized under sections 301 and 311 of the Public Health Service Act (42 U.S.C. 241 and 243), as amended. Applicable program regulations are set forth in 42 CFR part 52, entitled Grants for Research Projects.

Eligible Applicants

Eligible applicants are the governments of any of the several states of the United States, the District of Columbia, Commonwealth of Puerto Rico, any territory or possession of the United States, local governments, and other public and private nonprofit organizations; or any bona fide agent or instrumentality of a state or local government or other public and private nonprofit organizations.

Availability of Funds

Approximately $6,100,000 will be available in FY 1992 to fund approximately 15 awards. It is expected that the average award will be approximately $360,000, ranging from $150,000 to $500,000. It is expected that most of the 15 awards will be competing renewal awards and will begin on or about June 30 and September 30, 1992. Awards are usually made for a 12-month budget period within a project period of up to 5 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory programmatic progress and the availability of funds.

Purpose

The purpose of these awards is to help support researchers in the study of important HIV-related epidemiologic issues concerning risks of transmission, the natural history and transmission of the disease in certain populations, and the development and evaluation of behavioral recommendations for reducing AIDS and HIV infection. Programs that examine these research issues as they affect minority populations are of special interest.

Program Requirements

In conducting activities to achieve the purpose of this program, the applicant should follow the procedures set forth below.

Research Issues

Five research issues of programmatic interest to the health care community

and to CDC for FY 1992 are listed below and are considered to be of significant importance in gaining a greater understanding of the epidemiology of AIDS and HIV infection. However, applications submitted by organizations that examine other important HIV-related epidemiologic research issues will also be accepted and considered for funding.

1. Active Surveillance of Children Infected or Exposed to HIV

Study proposals that address issues of HIV infection in children are solicited. Major concerns include: Evaluation of the surveillance definition for AIDS in children, description of the full spectrum of HIV disease in children and patterns of disease progression and the social and economic impact of pediatric HIV infection. Eligible applicants include health departments or hospitals serving regions with a seroprevalence of HIV in childbearing women in 1988 or later which was greater than or equal to 1.0/1000. Hospitals must document how they will coordinate study efforts with their state or local health departments.

Applicants must be willing to participate in an ongoing multi-center project. Funding preference will be given to study sites which have successfully completed the initial phase of this project.

2. Perinatal HIV Transmission Studies

Studies should be designed to identify HIV-infected women during pregnancy or at delivery and enroll the women and their infants in a prospective follow-up study to examine factors related to perinatal transmission, early diagnosis of infant infection, and disease progression, particularly in infants. Transmission of other infections to the fetus or infant and the potential role of these infections as cofactors in HIV transmission or disease progression are also of interest. Preference will be given to studies in which mother-infant pairs are already being systematically identified and followed, and where there is an ability to collect appropriate comparison data on uninfected mother-infant pairs. Applicants must demonstrate that they can provide adequate rates of follow-up of both mothers and infants, including collection of laboratory specimens at periodic intervals (particularly during the first 4 months of life), and longterm follow-up of infants, including those placed in foster care. Applicants must be willing to participate in collaborative studies with other CDC-sponsored perinatal projects, including use of common data collection instruments and study design where warranted. Applicants must demonstrate cost-effective data management and statistical capability or provide explicit plans for data management by CDC or an outside group. Applicants must demonstrate the ability to enroll and follow at least 30 HIV+ mother-infant pairs per year at each participating hospital.

3. Studies of Currently Enrolled Populations of HIV-Infected Persons

Studies of populations currently being funded by CDC may provide the basis for focused epidemiologic studies (e.g., "nested" case control studies) of the natural history of HIV infection. Typically, these are populations that require extensive effort to recruit and follow in a longitudinal manner and have had minimal loss to follow-up of cohort members. In addition to providing groups for further focused studies, continued maintenance of such populations should add to data already collected. For example, a current cohort would typically continue to provide data on AIDS diagnoses in HIV-infected persons and seroconversion dates for previously uninfected cohort members or risk factors for and occurrence of specific opportunistic infections within a defined cohort. Such populations may include, but are not limited to, homosexual and bisexual men, injecting and non-injecting drug users, attendees at sexually transmitted disease clinics, children and adolescents. Applicants should demonstrate their ability to maintain and follow such populations for specific "nested" studies. Preference will be given to large, well-maintained cohorts that have already generated useful data about the natural history of HIV infection and can be systematically continued in a cost-effective manner. Applications for studies of these populations should demonstrate an ability to provide new insights into the epidemiology and natural history of HIV infection and not duplicate other projects.

4. Behavioral Studies of Communication and Negotiation Related to HIV Among Youth

Study proposals are solicited that address the processes of communication and negotiation among heterosexual male and female youth and the psychosocial factors that influence these processes. Research questions of interest include: How much communication occurs related to HIV risk, sexual behavior including abstinence, condom use, etc. and what are barriers to this communication?

A cross-sectional design integrating both qualitative and quantitative research methodologies is preferred. Study populations of particular interest include heterosexual males and heterosexual couples where at least one partner has multiple partners or engages in other HIV risk behavior. Studies including ethnic comparisons are also strongly encouraged.

Study teams should include at least one experienced social scientist. Applicants should be willing to collaborate with CDC and researchers from other study sites in the preparation of joint study protocols and survey instruments.

5. Behavioral Studies of HIV Infection and the Family

a. Studies related to primary infection. Studies should be designed to examine the impact of adult family members, attitudes, beliefs and behaviors related to HIV infection on risk behaviors of male and female adolescents. Racial/ethnic differences will be examined with regard to how family structure, parental or family dysfunction and adult role models outside the family influence the behaviors among adolescents. A cross-sectional design integrating both quantitative and qualitative research methodologies is preferred. Applicants should document their ability to access and interview adolescents of these age groups and at least one biological parent or guardian with whom the child has lived. Applicants are encouraged to include both male and female adolescent study participants.

b. Studies related to secondary prevention. Studies should be designed to examine how HIV infection of a family member affects family functioning and how this family functioning impacts on adherence to recommended medical treatment for HIV by the HIV-infected person. Primary research questions include: What coping strategies are used, including disclosure of HIV status to others, and what resources do family members draw upon to assist in caring for HIV-infected family members?

What factors predict family functioning and subsequent adherence to recommended health care? What is the psychological impact on family members who serve as caretakers?

Studies may be either cross-sectional or have a limited follow-up component and may include standardized psychological assessment and qualitative and survey research methodologies. Applicants are encouraged to submit proposals to study families which include: (1) An infant or child infected through perinatal transmission; (2) an HIV-infected

adolescent (ages 13–18); or (3) an adult member who is HIV-infected. Applicants should be able to document their ability to enroll adequate numbers of infected persons and one or more uninfected family members.

Study teams should include at least one social scientist. Applicant must agree to collaborate with CDC and researchers from other study sites in the preparation of joint study protocols and survey instruments.

Research Project Grants

A research project grant is one in which substantial programmatic involvement by CDC is not anticipated by the recipient during the project period. Applicants for grants must demonstrate an ability to conduct the proposed research with minimal assistance, other than financial support, from CDC. This would include possessing sufficient resources for clinical, laboratory and data management services and a level of scientific expertise to achieve the objectives described in their research proposal without substantial technical assistance from CDC.

Cooperative Agreements

A cooperative agreement implies that CDC will assist the collaborator in conducting the epidemiologic research of AIDS and HIV infection described in the PURPOSE section of this notice. The application should be presented in a manner that demonstrates the applicant's ability to address the research problem in a collaborative manner with CDC. In addition to the financial support provided, CDC may collaborate by:

(1) Providing technical assistance in the design and conduct of the research;

(2) Providing technical guidance in the development of study protocols, consent forms and questionnaires, including training and pretesting, as necessary;

(3) Assisting in designing a data management system;

(4) Performing selected laboratory tests;

(5) Coordinating research activities among the different sites, including laboratories and consultant services; and

(6) Participating in the analysis of research information and the presentation of research findings.

Determination of Which Instrument to Use

Applicants must specify the type of award for which they are applying, either project grant or cooperative agreement. CDC will review the applications in accordance with the evaluation criteria. Before issuing awards, CDC will determine whether a grant or cooperative agreement is the appropriate instrument based upon the need for substantial Federal involvement in the project.

Review and Evaluation Criteria

Applications will be reviewed and evaluated based on the evidence submitted which specifically describes the applicants, abilities to meet the following criteria:

1. The inclusion of a review of the literature pertinent to the study being proposed and specific research questions and/or hypotheses that will guide the research. (25 points)

2. The plans to develop and implement the study describing how study participants will be identified, enrolled, tested and followed. (25 points)

3. The ability to enroll and follow an adequate number of eligible study participants to assure proper conduct of the study. This includes both demonstration of the availability of HIV-infected potential study participants and the experience of the investigator in enrolling and following such persons. (25 points)

4. The applicant's current activities in AIDS and HIV or related research and how they will be applied to achieving the objectives of the study. Letters of support from cooperating organizations that demonstrate the nature and extent of such cooperation should be included. (25 points)

5. The originality and need for the proposed research and the extent to which it does not replicate past or present epidemiologic research efforts. (25 points)

6. The applicant's understanding of the research objectives and, for those applicants choosing the cooperative agreement instrument, their ability, willingness and/or need to collaborate with CDC and researchers from other study sites in study design and analysis, including use of common forms, and sharing of specimens and data. (25 points)

7. The plan to protect the rights and confidentiality of all participants and ensure adequate participation. (10 points)

8. The size, qualifications and time allocation of the proposed staff and the availability of facilities to be used during the research study. How the project will be administered to assure the proper management of the daily activities of the program should be described. (10 points)

9. The proposed schedule for accomplishing the activities of the research, including time frames. (10 points)

10. The quality of an evaluation plan which specifies methods and instruments to be used to evaluate the progress made in attaining research objectives. (10 points)

(A maximum of 190 points can be awarded.)

The budget will be reviewed to determine the extent to which it is reasonable, clearly justified and consistent with the intended use of funds. Budget information should be specific to the purpose of each budget item and all budget categories should be itemized.

Funding Priorities

Preference will be given to competing continuation applications from satisfactorily performing projects over applications for projects not already receiving support under the program.

Other Requirements

1. Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

2. Human Subjects

This program involves research on human subjects. Therefore, all applicants must comply with Public Law 93–148 regarding the protection of human subjects. Assurances must be provided that demonstrate that the project or activity will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and forms provided in the application kit.

3. HIV Program Review Panel

Recipients must comply with the requirement to establish an HIV Program Review Panel as defined in the document titled: "Content of HIV/AIDS-related written materials, pictorials, audiovisuals, questionnaires, survey instruments, and educational sessions in centers for disease control assistance programs."

4. Patient Care

Applicants should provide assurance that all HIV-infected patients enrolled in their studies will be linked to an appropriate local HIV care system that can address their specific needs such as medical care, counseling, social services

and therapy. Details of the HIV care system should be provided, describing how patients will be linked to the system.

Executive Order 12372 Review

Applications are not subject to review under Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.118, Acquired Immunodeficiency Syndrome (AIDS) Activity.

Application Submission and Deadline

The original and two copies of the completed application PHS Form 5161–1 must be submitted to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mail Stop E–14, Atlanta, Georgia 30305, on or before July 10, 1992, for new and competing renewal applications whose project periods end in June and September 1992.

Applications will be considered to meet the deadline if they are received at the above address on or before the stated deadline date or if they bear a postmark of the stated deadline date and are received in time for submission to the independent review group. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be accepted as proof of timely mailing.

Applications which do not meet the above criteria will be considered late applications, will not be considered in the current competitive cycle and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, an application package and business management technical assistance may be obtained from Gordon R. Clapp, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mail Stop E–14, Atlanta, Georgia 30305, (404) 842–6801.

Programmatic technical assistance may be obtained from John Narkunas, Division of HIV/AIDS, National Center for Infectious Diseases, Centers for Disease Control, Atlanta, Georgia 30333, Mail Stop E–45, (404) 639–6130. Eligible applicants are encouraged to call prior to the development and submission of their assistance application.

Please refer to Announcement Number 222 when requesting information and submitting an application for assistance.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the INTRODUCTION through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Dated: May 19, 1992.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control.

[FR Doc. 92–12152 Filed 5–22–92; 8:45 am]

BILLING CODE 4160–18–M

Administration for Children and Families

Agency Information Collection Under OMB Review

AGENCY: Administration for Children and Families Offices of Family Assistance, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for approval of an existing collection of information for the Office of Family Assistance of the Administration for Children and Families. This information collection, the Statistical Report on Recipients Under Public Assistance Programs (Form No. FSA 3637) was previously approved under OMB control number 0970–0008.

ADDRESSES: Copies of the Information Collection request may be obtained from Steve Smith, Reports Clearance Officer, by calling (202) 401–9235.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Kristina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: Statistical Report on Recipients Under Public Assistance Programs (Form No. FSA 3637).

OMB No.: 0970–0008.

Description: This collection of information is authorized by section 402(a)(6) of the Social Security Act and by the Code of Federal Regulations 45 Public Welfare, 205.60. This report is basis to the proper administration and monitoring of the AFDC, Adult and JOBS programs of the States, Guam, Puerto Rico and the Virgin Islands. This form compiles basic monthly information and reports the information on a quarterly basis on the numbers of cases, recipients, children, and adults in various segments of the AFDC Basic and the Unemployment programs. The report also provides information on Emergency Assistance cases, General Assistance cases and recipients, the number of cases and individuals required to participate in the JOBS programs, the number of children receiving Transitional Child Care and other social services provided by the Administration for Children and Families as authorized by the Social Security Act.

Annual Number of Respondents: 54.

Annual Frequency: 4.

Average Burden Hours Per Response: 34.

Total Burden Hours: 7,344.

Dated: May 19, 1992.

Naomi B. Marr,

Director, Office of Informatin and Management Systems.

[FR Doc. 92–12129 Filed 5–22–92; 8:45 am]

BILLING CODE 4130–01–M

Food and Drug Administration

[Docket No. 92N–0217]

Drug Export: UBI HIV–1/2 EIA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that United Biomedical, Inc., has filed an application requesting approval for the export of the biological product UBI HIV–1/2 EIA test kits to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human

biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Frederick W. Blumenschein, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that United Biomedical, Inc., 25 Davids Dr., Hauppauge, NY 11788, has filed an application requesting approval for the export of the biological product UBI HIV-1/2 EIA test kits to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. The UBI HIV-1/2 EIA is an in vitro qualitative enzyme immunoassay for the detection of antibodies to Human Immunodeficiency Virus, Type 1 (HIV-1) and Human Immunodeficiency Virus, Type 2 (HIV-2) in serum or plasma of blood donors or individuals at unknown risk for HIV-1 and/or HIV-2 infection. The application was received and filed in the Center for Biologics Evaluation and Research on April 22, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by June 5, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: May 8, 1992.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 92-12161 Filed 5-22-92; 8:45 a.m.]

BILLING 4160-01-F

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of July 1992:

Name: Council on Graduate Medical Education

Time: July 7-8, 1992, 8:30 a.m.-12 p.m.

Place: Conference Room D & E, Parklawn Conference Center, 5600 Fishers Lane, Rockville, MD 20857. Open for entire meeting.

Purpose: Provides advice and recommendations to the Secretary and to the Committees on Labor and Human Resources, and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to (A) the supply and distribution of physicians in the United States; (B) current and future shortages of physicians in medical and surgical specialties and subspecialties; (C) issues relating to foreign medical graduates; (D) appropriate Federal policies regarding (A), (B), and (C) above; (E) appropriate efforts to be carried out by medical and osteopathic schools, public and private hospitals and accrediting bodies regarding matters in (A), (B), and (C) above; (F) deficiencies in the needs for improvements in, existing data bases concerning supply and distribution of, and training programs for physicians in the United States.

Agenda: The plenary Council will be discussing and making changes to the Council on Graduate Medical Education "Executive Report, Infrastructure for Access: Physician Specialty Mix; Reform of Medical Education; and Improved Representations of Minorities in Medicine."

Anyone requiring information regarding the subject Council should contact Marc L. Rivo, M.D., M.P.H., Deputy Executive Secretary, Council on Graduate Medical Education, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3626.

Agenda items are subject to change as priorities dictate.

Dated: May 19, 1992.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 92-12160 Filed 5-22-92; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Prospective Grant of Partially Exclusive Patent Licenses

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of partially exclusive patent licenses in the United States to practice the invention embodied in U.S. Patent Application Serial Number 7/474,307 (which is a Continuation of 07/137,796 (Abandoned)), entitled "Cloned DNA for Synthesizing Unique Glucocerebrosidase," in the field of enzyme replacement therapy to Enzon, Inc. having a place of business at South Plainfield, New Jersey and Genzyme, Inc. having a place of business at Cambridge, Massachusetts. The patent rights in this invention have been assigned to the United States of America.

The prospective partially exclusive licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective partially exclusive licenses may be granted unless, within sixty days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the licenses would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention relates to a novel cDNA clone containing the complete coding region for human glucocerebrosidase, substantially pure synthetic glucocerebrosidase with a different carbohydrate structure than that found in human placental glucocerebrosidase, and methods for the treatment of Gaucher's disease.

The availability of the invention for licensing was published in the 53 FR No. 79, p. 10085 (April 25, 1988). Requests for a copy of the above identified patent application, inquiries, comments and

other materials relating to the contemplated licenses should be directed to: Mr. Arthur Cohn, J.D., Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, Maryland 20892 (telephone: (301) 496–0750; FAX:(301) 402–0220). Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated licenses. Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer within sixty (60) days of this notice will be considered.

Dated: May 15, 1992.

Reid G. Adler,

Director, Office of Technology Transfer.

[FR Doc. 92–12112 Filed 5–22–92; 8:45 am]

BILLING CODE 4140–01–M

Prospective Grant of Exclusive License: Method of Treating Cancer With Methylglyoxal Bis-Guanylhydrazone

AGENCY: National Institutes of Health, Public Health Services, HHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(91) and 37 CFR 404.7(a)(1)(i) tha thte National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Number 4,520,031 (Application Serial Number 06/410,965, entitled, "Method of Treating Cancer with Methylglyoxal Bis-Guanylhydrazone.", to Cancer Therapy & Research Center having a place of business in San Antonio, Texas. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The present invention relates to a method for reducing the toxic effects of Methylglyoxal Bis-Guanylhydrazone (MGBG) in cancer patients. An important measures of therapeutic effectiveness of an antineoplastic agent is its ability to inhibit tumor growth while exhibiting a minimum of adverse side effects. This invention increases the therapeutic index of MGBG by circumventing the prohibitive toxicity associated with a daily dosing schedule. The CTRC intends to use this invention for treating lymphoma patients who are refractory to conventional lymphoma therapies. According to the National Center for Health Statistics, there are approximately 16,500 patients per year who do not respond to conventional lymphoma treatment and it is expected that these patients will benefit from this invention.

A copy of this patent, inquiries, comment and other materials relating to the contemplated license should be directed to: Mr. Daniel R. Passeri, Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, MD 20892. (Telephone: (301)–496–0750; Facsimile: (301)–402–0220.)

Dated: May 13, 1992.

Reid G. Adler,

Director, Office of Technology Transfer.

[FR Doc. 92–12105 Filed 5–22–92; 8:45 am]

BILLING CODE 4140–01–M

Prospective Grant of Partially Exclusive Patent License

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a partially exclusive license in the United States to practice the inventions embodied in U.S. Patent Applications Serial Numbers 07/261,627 (issued as U.S. Patent 4,939,149), entitled "Resiniferatoxin and Analogues Thereof to Cause Sensory Afferent C-Fiber and Thermoregulatory Desensitization," 07/358,073 (issued as U.S. Patent 5,021,450), entitled "Class of Compounds Having a Variable Spectrum of Activities for Capsaicin-Like Responses, Compositions and Uses Thereof," and 07/515,721 (DIV of U.S. Patent Application 07/261,627), entitled "Use of Resiniferatoxin and Analogues Thereof To Cause Sensory Afferent C-Fiber and Thermoregulatory Desensitization" to Omnipharm Research International, Inc. having a place of business at Buffalo, New York. The patent rights in these inventions have been assigned to the United States of America.

The prospective partially exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective partially exclusive license may be granted unless, within sixty days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The inventions relate to a novel class of compounds and methods of using these compounds therapeutically to desensitize humans or animals to neurogenic inflammation, to responses involving sensory afferent pathways sensitive to capsaicin, or to responses involving the hypothalamic temperature control region.

The availability of the inventions for licensing was published in the **Federal Register** of December 8, 1988 (53 FR 49583) and of December 19, 1989 (54 FR 51925). Requests for a copy of the above identified patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Mr. Arthur Cohn, J.D., Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, Maryland 20892 (telephone: (301) 496–0750; FAX: (301) 402–0220). Properly filed competing applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer within sixty (60) days of this notice will be considered.

Dated: May 12, 1992.

Reid G. Adler,

Director, Office of Technology Transfer.

[FR Doc. 92–12110 Filed 5–22–92; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–010–4410–02]

Boise District Meeting

AGENCY: Boise District, Bureau of Land Management, Idaho.

ACTION: Notice of meeting.

SUMMARY: The Boise District Advisory Council will meet to discuss the Owyhee Resource Management Plan, the Snake River Birds of Prey Area, recreation management in the Boise Front, effects of drought, and other issues.

DATES: The Council will meet Wednesday, June 17, beginning at 8:30 a.m. in the District Office conference room.

ADDRESSES: The Boise District Office is located at 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Barry Rose, BLM Boise District (208) 384–3393.

Dated: May 14, 1992

Rodger E. Schmitt,

Associate District Manager.

[FR Doc. 92–12172 Filed 5–22–92; 8:45 am]

BILLING CODE 4310–GG–M

National Park Service

Allegheny Portage Railroad National Historic Site; Boundary Revision

AGENCY: National Park Service Interior.

ACTION: Revision of Park Boundary, Allegheny Portage Railroad National Historic Site.

Public Law 95–42 (91 Stat. 211) dated June 10, 1977 provides that the Secretary may make boundary changes to an area whenever he determines that to do so will contribute to, and is necessary for, the proper preservation, protection, interpretation, or management of such an area.

Pursuant to Public Law 95–42, 16 U.S.C. 460*l*–9(c), notice is given that the boundary of Allegheny Portage Railroad National Historic Site has been revised to include 2.30 acres necessary to provide access to the visitor center on Gallitzin Road from U.S. Route 22, as depicted on Boundary Map Numbered 423/80,010A and dated November 1991.

The map is on file and available for inspection in the administrative office of the Allegheny Portage Railroad National Historic Site, P.O. Box 247, Cresson, Pennsylvania 16630; in the office of the Mid-Atlantic Region, Land Resources Division, 143 South Third Street, Philadelphia, Pennsylvania, 19106; and in the office of the National Park Service, Land Resources Division, P.O. Box 37127, Washington, DC 20013–7127.

Dated: March 9, 1992.

Anthony Corbisiero,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 92–11976 Filed 5–22–92; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 16, 1992. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by June 10, 1992.

Carol D. Shull,

Chief of Registration, National Register.

Arkansas

Pulaski County

YMCA Building (Thompson, Charles L., Design Collection TR), E. Capitol & Scott Sts., Little Rock, 87001544

Minnesota

Hennepin County

Parker, Charles and Grace, House, 4829 Colfax Ave. S., Minneapolis, 92000699

Lake County

Dwan, John, Office Building, 201 Waterfront Dr., Two Harbors, 92000700

Mississippi

Forrest County

Building 6981, Camp Shelby, Camp Shelby, Hattiesburg vicinity, 92000698

Nebraska

Antelope County

Bridge (Highway Bridges in Nebraska MPS), Twp. Rd. over unnamed stream, 6.8 mi. NE of Royal, Royal vicinity, 92000725

Elkhorn River Bridge (Highway Bridges in Nebraska MPS), Twp. Rd. over the Elkhorn R., 3 mi. E of Clearwater, Clearwater vicinity, 92000771

Neligh Mill Bridge (Highway Bridges in Nebraska MPS), Elm St. over the Elkhorn R., Neligh 92000724

Verdigris Creek Bridge (Highway Bridges in Nebraska MPS), Twp. Rd. over Verdigris Cr., 1.9 mi. NE of Royal, Royal vicinity, 92000770

Boyd County

Ponca Creek Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over Ponca Cr., 3 mi. E of Lynch, Lynch vicinity, 92000769

Buffalo County

Kilgore Bridge, (Highway Bridges in Nebraska MPS), NE 10 over N. Channel Platte R., 7.1 mi. SE of Kearney, Kearney vicinity, 92000768

Sweetwater Mill Bridge, (Highway Bridges in Nebraska MPS), Co. Rd. over Mud Cr., Sweetwater, 92000767

Burt County

Tekamah City Bridge (Highway Bridges in Nebraska MPS), US 75 over Tekamah Cr., Tekamah, 92000766

Butler County

Big Blue River Bridge (Highway Bridges in Nebraska MPS), Twp. Rd. over Big Blue R., 1 mi. SE of Surprise, Surprise vicintiy, 92000708

Clear Creek Bridge (Highway Bridges in Nebraska MPS), Twp. Rd. over Clear Cr., 5.8 mi. NW of Bellwood, Bellwood vicintiy, 92000734

Cass County

Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over unnamed stream, 4.7 mi. SE of Louisville, Louisville vicinity, 92000707

Plattsmouth Bridge (Highway Bridges in Nebraska MPS), US 34 over the Missouri R., Plattsmouth, 92000755

Cherry County

Adamson Bridge (Highway Bridges in Nebraska MPS), NE 97 over the Niobrara R., 7.8 mi. SW of Valentine, Valentine vicinity, 92000749

Bell Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the Niobrara R., 11.9 mi. NE of Valentine, Valentine vicinity, 92000752

Berry State Aid Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the Niobrara R., 10 mi. NE of Valentine, Valentine vicinity, 92000753

Borman Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the Niobrara R., 2.3 mi. SE of Valentine, Valentine vicinity, 92000751

Brewer Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the Niobrara R., 14.7 mi. E of Valentine, Valentine vicinity, 92000754

Twin Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the N. Loup R., 7.9 mi. NW of Brownlee, Brownlee vicinity, 92000750

Cheyenne County

Brownson Viaduct (Highway Bridges in Nebraska MPS), NE Spur 17A over US 30 and UPRR tracks, .8 mi. NW of Brownson, Brownson vicinity, 92000747

Clay County

Deering Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over School Cr., 2 mi. N, 2 mi. E of Sutton, Sutton vicinity, 92000748

Cuming County

Rattlesnake Creek Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over Rattlesnake Cr., 2.8 mi. NW of Bancroft, Bancroft vicinity, 92000743

Custer County

Sargent Bridge (Highway Bridges in Nebraska MPS), Dawson St. over the Middle Loup R., 1 mi. S of Sargent, Sargent vicinity, 92000740

Douglas County

Main Street Bridge (Highway Bridges in Nebraska MPS), Main St. over W. Papillion Cr., Elkhorn, 92000746

Saddle Creek Underpass, (Highway Bridges in Nebraska MPS), US 6 (Dodge St.) over Saddle Cr. Rd., Omaha, 92000741

South Omaha Bridge (Highway Bridges in Nebraska MPS), US 275/NE 92 over the Missouri R., Omaha, 92000742

Fillmore County

Big Blue River Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over W. Fork of the Big Blue R., 5 mi. N, 1 mi. W of Grafton, Grafton vicinity, 922000745

Franklin County

Franklin Bridge (Highway Bridges in Nebraska MPS), NE 10 over the Republican R., 1 mi. S of Franklin, Franklin vicinity, 92000764

Republic River Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the Republican R., 1 mi. E and 1.5 mi. S of Riverton, Riverton vicinity, 92000765

Furnas County

Cambridge State Aid Bridge (Highway Bridges in Nebraska MPS), NE 47 over the Republican R., .6 mi. S of Cambridge, Cambridge vicinity, 92000763

Gage County

Big Indian Creek Bridge (Highway Bridges in Nebraska MPS), Twp. Rd. over Big Indian Cr., 3 mi. SW of Wymore, Wymore vicinity, 92000760

Bloody Run Bridge (Highway Bridges in Nebraska MPS), Twp. Rd. over Bloody Run, 4 mi. SW of Virginia, Virginia vicinity, 92000759

Bridge (Highway Bridges in Nebraska MPS), Twp. Rd. over Sicily Cr., 6 mi. NW of Wymore, Wymore vicinity, 92000761

Farmers State Bank, 601 Main, Adams, 92000702

Hoyt Street Bridge (Highway Bridges in Nebraska MPS), Vacated Twp. Rd. over the Big Blue R., Beatrice, 92000758

Mission Creek Bridge (Highway Bridges in Nebraska MPS), Co. Hwy. over Mission Cr., 7 mi SW of Barneston, Barneston vicinity, 92000762

Garden County

Lewellen State Aid Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the N. Platte R., 1 mi. S of Lewellen, Lewellen vicinity, 92000756

Lisco State Aid Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the N. Platte R., .6 mi S of Lisco, Lisco vicinity, 92000757

Garfield County

Burwell Bridge (Highway Bridges in Nebraska MPS), NE 11 over the N. Loup R., Burwell, 92000715

Hall County

Nine Bridges Bridge (Highway Bridges in Nebraska MPS), Private rd. over Middle Channel of the Platte R., 3.9 mi. N of Doniphan, Doniphan vicinity, 92000716

Harlan County

Prairie Dog Creek Bridge (Highway Bridges in Nebraska MPS), Twp. Rd. over Prairie Dog Cr., 8.5 mi. S and 1 mi. W of Orleans, Orleans vicinity, 92000712

Sappa Creek Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over Sappa Cr., 2 mi. E of Stamford, Stamford vicinity, 92000713

Turkey Creek Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over Turkey Cr., 2 mi. W and 1 mi. S of Ragan, Ragan vicinity, 92000711

Hitchcock County

Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over intermittent stream, 2 mi. E of Stratton, Stratton vicinity, 92000714

Johnson County

Keim Stone Arch Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over unnamed stream, 3 mi. E and 1 mi. N of Tecumseh, Tecumseh vicinity, 92000710

Keith County

Roscoe State Aid Bridge (Highway Bridges in Nebraska MPS), State Link 51B over the S. Platte R., .5 mi. SE of Roscoe, Roscoe vicinity, 92000709

Keya Paha County

Lewis Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the Keya Paha R., 13.6 mi. NE of Springview, Springview vicinity, 92000774

Knox County

Gross State Aid Bridge (Highway Bridges in Nebraska MPS), Co. Hwy. over Verdigris Cr., 3.5 mi. N, .2 mi. W of Verdigre, Verdigre vicinity, 92000773

Lancaster County

Beal Slough Bridge (Highway Bridges in Nebraska MPS), W. Pioneers Blvd. over Beal Slough, .5 mi. W of Lincoln, Lincoln vicinity, 92000744

Olive Branch Bridge (Highway Bridges in Nebraska MPS), W. Stagecoach Rd. over Olive Br., 1.7 mi. SW of Sprague, Sprague vicinity, 92000739

Lincoln County

Sutherland State Aid Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the N. Platte R., 4.2 mi. N of Sutherland, Sutherland vicinity, 92000705

Nuckolls County

Stewart Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over Big Sandy Cr., 1 mi. E and 8 mi. N of Oak, Oak vicinity, 92000717

Otoe County

Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over unnamed stream, 4.1 mi. SW of Lorton, Lorton vicinity, 92000733

Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over unnamed stream, 1.5 mi. SW of Nebraska City, Nebraska City vicinity, 92000737

Little Nemaha River Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the Little Nemaha R., 1.8 mi. NW of Dunbar, Dunbar vicinity, 92000720

Little Nemaha River Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the Little Nemaha R., 3 mi. NW of Syracuse, Syracuse vicinity, 92000723

Wolf Creek Bridge (Highway Bridges in Nebraska MPS), Vacated Co. Rd. over Wolf Cr., 10.3 mi. NE of Dunbar, Dunbar vicinity, 92000738

Wyoming Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over Squaw Cr., 9.1 mi. NE of Dunbar, Dunbar vicinity, 9200736

Pawnee County

Cincinnati Bridge (Highway Bridges in Nebraska MPS), Closed Co. Rd. over S. Fk. Big Nemaha R., 1 mi. S, .2 mi E of Du Bois, Du Bois vicinity, 92000719

Pierce County

Willow Creek Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over Willow Cr., 6.5 mi. S of Foster, Foster vicinity, 92000706

Platte County

Columbus Loup River Bridge (Highway Bridges in Nebraska MPS), US 30 over the Loup R., Columbus 92000735

Richardson County

Rulo Bridge (Highway Bridges in Nebraska MPS), US 159 over the Missouri R., Rulo, 92000718

Rock County

Carns State Aid Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the Niobrara R., 10.8 mi. NE of Bassett, Bassett vicinity, 92000722

Sarpy County

Big Papillion Creek Bridge (Highway Bridges in Nebraska MPS), 120th St. over S. Br. of Big Papillion Cr., 3.2 mi. W of La Vista, La Vista vicinity, 92000728

Saunders County

Ashland Bridge (Highway Bridges in Nebraska MPS), Silver St. over Salt Cr., Ashland, 92000721

Scotts Bluff County

Henry State Aid Bridges (Highway Bridges in Nebraska MPS), NE 86 over the N. Platte R., .6 mi. S of Henry, Henry vicinity, 92000732

Interstate Canal Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over Interstate Canal, 9.3 mi. N of Scottsbluff, Scottsbluff vicinity, 92000731

Knorr—Holden Continuous Corn Plot, Scottsbluff Experiment Station, off NE 71 N of Scottsbluff, Scottsbluff vicinity, 92000703

Sheridan County

Colclesser Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the Niobrara R., 11 mi. S of Rushville, Rushville vicinity, 92000729

Loosveldt Bridge (Highway Bridges in Nebraska MPS), Private ranch rd. over the Niobrara R., 9.1 mi. SE of Rushville, Rushville vicinity, 92000730

Thurston County

North Omaha Creek Bridge (Highway Bridges in Nebraska MPS), Twp. Rd. over N. Omaha Cr., 3 mi. SW of Winnebago, Winnebago vicinity, 92000727

Valley County

North Loup Bridge (Highway Bridges in Nebraska MPS), Co. Rd. over the N. Loup R., 1.5 mi. NE of North Loup, North Loup vicinity, 92000704

Webster County

Red Cloud Bridge (Highway Bridges in Nebraska MPS), NE 281 over the Republican R., 2 mi. S of Red Cloud, Red Cloud vicinity, 92000726

York County

York Subway (Highway Bridges in Nebraska MPS), 14th and 15th Sts. and BNRR tracks over US 81, York, 92000772

North Carolina

Rowan County

Bernhardt House, 305 E. Innes St., Salisbury, 92000701

Texas

El Paso County

Franklin Canal, Roughly, S of the Texas and Pacific—Southern Pacific RR tracks from western El Paso to Fabens, El Paso vicinity, 92000696

Washington

Clark County

Glenwood School (Rural Public Schools in Washington State MPS), Jct. of NE. 87th Ave. and NE. 134th St., SE corner, Glenwood vicinity, 92000697

[FR Doc. 92-12164 Filed 5-22-92; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[No. MC-C-30192]

Dart Transit Co.—Petition for Declaratory Order—Leasing Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Extension of comment due date.

SUMMARY: By notice served April 14, 1992, the Commission prescribed a comment due date of May 14, 1992, for interested parties in this proceeding. By letter filed May 14, 1992, The Owner-Operator Independent Drivers Assn., Inc. (OOIDA) requests a seven-day extension to file its comments. OOIDA states that petitioner Dart Transit, Inc., does not oppose the extension request. OOIDA's extension request will be granted and the procedural schedule will be adjusted accordingly.

DATES: Comments are due on May 21, 1992. Replies are due on June 10, 1992.

ADDRESSES: Send an original and 10 copies of comments referring to No. MC-C-30192 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: James L. Brown: (202) 927-5303 or Richard B. Felder: (202) 927-5610 (TDD for the hearing impaired: (202) 927-5721).

Decided: May 19, 1992.

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-12199 Filed 5-22-92; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-370 (Sub-No. 1X)]

Exemption; Valdosta Railway, L.P.—Discontinuance of Trackage Rights Exemption—in Valdosta, GA

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to discontinue its overhead trackage rights on approximately 2.0-miles of rail line belonging to the Central of Georgia Railway Company (CGA), between mileposts 27.44 and 29.44 in Valdosta, GA. CGA will continue to operate the line.

Applicant has certified that: (1) It has handled no local or overhead traffic on the line for at least 2 years; (2) any overhead traffic that could move on the line can be and has been rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on June 25, 1992, (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues [1] and formal expressions of intent to file offers of financial assistance under 49 CFR 1152.27(c)(2) [2] must be filed by June 5, 1992. Petitions to reopen must be filed by June 15, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Donald G. Avery, Slover & Loftus, 1224 Seventeenth St., N.W., Washington, DC 20036.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Decided: May 19, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 92-12200 Filed 5-22-92; 8:45 am]

BILLING CODE 7035-01-M

[1] Ordinarily a stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Because trackage rights discontinuances are exempt from the Commission's environmental and historic reporting requirements, a stay would not be issued here for these reasons.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-26, 727, et al.]

Halliburton Logging Services, et al.; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In the matter of TA-W-26, 727, Halliburton Logging Services, Geodata Headquartered in Houston, Texas and operating at various other sites in the Following States: TA-W-26, 727A Texas, TA-W-26, 727B Louisiana, TA-W-26, 727C Colorado, TA-W-26, 727D Wyoming, TA-W-26, 727E California, and TA-W-26, 727F Alaska; and TA-W-26, 729 Halliburton Company, Inc., Vann Systems Headquartered in Houston, Texas and operating at various other sites in the Following States: TA-W-26, 729 Texas, TA-W-26, 729B Alaska, TA-W-26, 729C Mississippi, TA-W-26, 729D New Mexico, TA-W-26, 729E California, TA-W-26, 729F Louisiana, TA-W-26, 729G Wyoming, and TA-W-26, 729H Oklahoma.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 6, 1992, applicable to the workers at the subject firms. The certification notice was published in the **Federal Register** on March 25, 1992 (57 FR 10386). The Certification was amended

on March 31, 1992 and published in the **Federal Register** on April 8, 1992 (57 FR 11971–2).

At the request of the Texas and Louisiana State Agencies, the Department reviewed the amended certification for workers of Halliburton Logging Services, Geodata and Halliburton Company, Inc., Vann Systems. The investigation findings show that the Geodata claimants wages are being reported under Halliburton Logging Services, Houston, Texas and the Vann Systems claimants wages are being reported under Halliburton Company, Inc., Houston, Texas. Accordingly, the Department is correcting the amended certification to properly reflect the correct worker group.

The intent of the Department's certification is to include all workers of Halliburton Logging Services, Geodata and Halliburton Company, Inc., Vann Systems both headquartered in Houston, Texas and operating in various States listed below.

The amended notice applicable to TA–W–26, 727 and TA–W–26, 729 is hereby issued as follows:

All workers of Halliburton Logging Services, Geodata (TA–W–26, 727) headquartered in Houston, Texas and operating at various other sites in the following States: Texas, Louisiana, Colorado, Wyoming, California and Alaska and all workers of Halliburton Company, Inc., Vann Systems, headquartered in Houston, Texas and operating at various other sites in the following States: Texas, Alaska, Mississippi, New Mexico, California, Louisiana, Wyoming, and Oklahoma who became totally or partially separated from employment on or after January 1, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974:

Signed in Washington, DC, this 15th day of May 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92–12182 Filed 5–22–92; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than June 5, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 5, 1992.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 11th day of May 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
J.E. Merit (Co)	Addy, WA	05/11/92	04/22/92	27,226	Contract Construction Services.
Petersburg Manufacturing Co (Wkrs)	Petersburg, PA	05/11/92	04/29/92	27,227	Knit Sleepwear.
Acme Boot Co (URW)	Clarksville, TN	05/11/92	04/27/92	27,228	Men's and Women's Boots.
Cheyenne Petroleum Co (Wkrs)	Oklahoma City, OK	05/11/92	04/27/92	27,229	Crude Oil, Natural Gas.
Legris, Inc. (Wkrs)	Rochester, NY	05/11/92	04/27/92	27,230	Pneumatic Fittings.
Optima Exploration, Inc (Wkrs)	Oklahoma City, OK	05/11/92	04/23/92	27,231	Oil Exploration.
Sea Farm Washington (Wkrs)	Rochester, WA	05/11/92	04/20/92	27,232	Salmon Hatchery.
Reckitt & Colman Household Prod. (Co).	Canton, OH	05/11/92	02/20/92	27,233	Household Products.
Acme United Corp (Wkrs)	Bridgeport, CT	05/11/92	04/18/92	27,234	Scissors of Cast Iron, Stainless Steel.
United Stars Industries, Inc (IAM)	Beloit, WI	05/11/92	04/24/92	27,235	Stainless Steel Tubing.
Coltec Industries, Inc (USWA)	Beloit, WI	05/11/92	04/24/92	27,236	Diesel Engines.
Coltec Industries, Inc (USWA)	Roscoe, IL	05/11/92	04/24/92	27,237	Magnetos Coils, Circuit Boards.
Bates Fabrics, Inc. (ACTWU)	Lewiston, ME	05/11/92	04/28/92	27,238	Weaving Fabrics.
Dell-Mar Sportswear (Wkrs)	Pittston, PA	05/11/92	04/30/92	27,239	Ladies' Dresses and Suits.
Intelligraphis, Inc (Wkrs)	Waukesha, WI	05/11/92	05/01/92	27,240	Provides Automated Mapping.
Hanover Energy Serivce (Wkrs)	Odessa, TX	05/11/92	04/14/92	27,241	Repair Compressors.
Newell Stamping & Mfg Corp (Wkrs)	Poplar Bluff, MO	05/11/92	04/23/92	27,242	Auto OEM Metal Stampings.
Mobil Oil Corp., E&P Div. Explor (Wkrs).	Dallas, TX	05/11/92	04/28/92	27,243	Oil and Gas.
Coors Energy Co (Co)	Golden, CO	05/11/92	04/08/92	27,244	Crude Oil and End Products.
Coors Energy Co (Co)	Erie, CO	05/11/92	04/08/92	27,245	Crude Oil and End Products.
Coors Energy Co (Co)	Roosevelt, UT	05/11/92	04/08/92	27,246	Crude Oil and End Products.

[FR Doc. 92–12183 Filed 5–22–92; 8:45 am]

BILLING CODE 4510–30–M

[TA-W-26, 896 NEW ORLEANS, LA TA-W-26,896A Houston, TX]

Sonat Offshore Drilling, U.S.A.; Amended Certification regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Revised Determinations on Reopening on May 6, 1992 for workers of the subject firm. The notice will soon be published in the Federal Register.

At the request of both the Texas and Louisiana State Agencies, the Department reviewed the revised certification for workers of Sonat Offshore Drilling. The investigation findings show that the claimants wages were being reported under Sonat Offshore Drilling, U.S.A. in Houston, Texas and New Orleans, Louisiana. Accordingly, the Department is correcting the revised certification to properly reflect the correct worker group.

The intent of the Department's certification is to include all workers of Sonat Offshore Drilling, U.S.A. headquartered in Houston, Texas and operating in other locations in Texas and Louisiana.

The amended notice applicable to TA-W-26,896 is hereby issued as follows:

All workers of Sonat Offshore Drilling, U.S.A., headquartered in Houston, Texas and New Orleans, Louisiana and operating in other locations of Texas and Louisiana and offshore in the Gulf of Mexico who became totally or partially separated from employment on or after February 1, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 15th day of May 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-12181 Filed 5-22-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,093]

Sunset Mud Co., San Angelo, TX; Revised Determination on Reconsideration

On May 8, 1992, the Department issued an Affirmative Determination Regarding Application for Reconsideration for former workers of Sunser Mud Company, San Angelo, Texas. This notice will soon be published in the Federal Register.

The company claims that the Department was inconsistent in its determination because workers in other oil field service companies which performed the same services as Sunset were certified.

Findings on reconsideration show that the Sunset workers are an integral part of the drilling process for crude oil and natural gas. Their activities fall within the drilling and exploration requirements necessary for certification.

Other findings on reconsideration show an absolute and relative increase in crude oil imports in the first two months of 1992 compared to the same period in 1991.

Also, on reconsideration the Department found that revenues and employment at the Sunset Mud declined during the periods under investigation. All workers were laid off on April 1, 1992.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the Sunset Mud workers at San Angelo, Texas were adversely affected by increased imports of articles like or directly competitive with crude oil for which drilling services were performed by workers of Sunset Mud Company in San Angelo, Texas and which contributed importantly to the decline in sales or production and to the total or partial separations of workers at Sunset Mud Company in San Angelo, Texas. In accordance with the provisions of the Act, I make the following revised certification for the Sunset Mud workers in San Angelo, Texas:

All workers of Sunset Mud Company in San Angelo, Texas who became totally or partially separated from employment on or after March 24, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 14th day of May 1992.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-12180 Filed 5-22-92; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Pension Investment Activity of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m., Wednesday, June 10, 1992, in Suite N-4437 CD, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Pension Investment Activity Working Group was formed by the Advisory Council to study issues relating to Pension Investment Activity for employee benefit plans covered by ERISA.

The purpose of the June 10 meeting is to hear testimony from several experts in the field of economically targeted investments. The Working Group will also take testimony and/or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit written request on or before June 2, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N-5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 2, 1992.

Signed at Washington, DC, this 20th day of May, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92-12215 Filed 5-22-92; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Health Care of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m., Tuesday June 9, 1992, in suite N-4437 CD, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Health Care Working Group was formed by the Advisory Council to study issues relating to Health Care for employee benefit plans covered by ERISA.

The purpose of the June 9 meeting is to hold hearings on funding aspects of Health Care benefits, primarily with respect to retired employees, and on certain vesting and portability issues. In addition, the Working Group will discuss Pay or Play legislative proposals, and hear testimony on and discuss the Health Research study of the Urban Institute and Rand Corporation, commissioned by the Department of Labor. The Working Group will also take testimony and or submissions from employee representatives, employer respresentatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit written request on or before June 2, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N–5677. Oral presentations will be limited to ten minutes, but witnessess may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 2, 1992.

Signed at Washington, DC, this 20th day of May, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92–12216 Filed 5–22–92; 8:45 am]

BILLING CODE 4510–29–M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Pension Coverage and Adequacy of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m., Thursday, June 11, 1992, in Suite S–4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Pension Coverage and Adequacy Working Group was formed by the Advisory Council to study issues relating to Pension Coverage and Adequacy for employee benefit plans covered by ERISA.

The purpose of the June 11 meeting is to hear expert witnesses testify before the Group on the trend in declining participation in defined benefit plans, the shift toward defined contribution plans, and the effect of this trend on pension coverage and adequacy. The Working Group will also take testimony and/or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit written request on or before June 2, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Deaprtment of Labor, suite N–5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before June 2, 1992.

Signed at Washington, DC, this 20th day of May, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92–12217 Filed 5–22–92; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Overview Section) will be held on June 10, 1992 from 9:15 a.m.–5:30 p.m. in Room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics will be introductory remarks, program update, guidelines review and policy discussion.

Any interested person may observe meetings, or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 20, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–12174 Filed 5–22–92; 8:45 am]

BILLING CODE 7537–01–M

Folk Arts Advisory Panel; Meeting

Pursuant to Section 10(a) (2) of the Federal Advisory Committee Act Pub. L. 92–463), as amended, a notice is hereby given that a meeting of the Folk Arts Advisory Panel (Folk Arts Organizations/State Arts Apprenticeship Programs Section) to the National Council on the Arts will be held on June 9–11, 1992 from 9 a.m.—6 p.m. and June 12 From 9 a.m.—3 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 11, from 12:30 p.m.—2:30 p.m. The topic will be policy discussion.

The remaining portions of this meeting on June 9–10 from 9 a.m.—6 p.m., June 11 from 9 a.m.—12:30 p.m. and 2:30 p.m.—6 p.m., and June 12 from 9 a.m.—3p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's

discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 18, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc 92–12127 Filed 5–22–92; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting two notices of information collections that will affect the public. Interested persons are invited to submit comments by June 22, 1992. Comments may be submitted to:

(A) *Agency Clearance Officer:* Herman G. Fleming, Division of Personnel and Management, National Science Foundation, Washington, DC 20550, or by telephone (202) 357–7335, and to:

(b) *OMB Desk Officer:* Office of Information and Regulatory Affairs, ATTN: Dan Chenok, Desk Officer, OMB, 722 Jackson Place, room 3208, NEOB, Washington, DC 20503.

Title: Database for Experimental Program to Stimulate Competitive Research (EPSCoR).

Affected Public: Individuals and State and Local Governments.

Respondents/Reporting Burden: 19 respondents; 2 hours per response.

Abstract: The National Science Foundation needs the information to establish baseline data on its Experimental Program to Stimulate Competitive Research (EPSCoR). This will allow for the assessment of program impact upon EPSCoR states, institutions, and researchers. Affected individuals are recipients of EPSCoR grants.

Dated: May 19, 1992.

Herman G. Fleming,

Reports Clearance Officer.

[FR Doc. 92–12141 Filed 5–22–92; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Special Emphasis Panel in Electrical and Communications Systems.

Date and Time: June 9, 1992; 8 a.m. to 5:30 p.m.

Place: Room 1243, NSF, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr George A. Hazelrigg, Deputy Division Director, NSF, 1800 G St., NW., rm. 1151, Washington, DC 20550. Telephone (202) 357–9618.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted to the Engineering Directorate.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C 552 b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: May 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–12154 Filed 5–22–92; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in East Elmhurst, NY; Aviation Accident

In connection with its investigation of the takeoff crash of a USAir Fokker F–28 at New York's LaGuardia Airport on March 22, 1992, the National Transportation Safety Board will convene a public hearing at 1 p.m. (local time), on Monday, June 22, 1992, in the Crystal Ballroom of the Ramada Hotel at LaGuardia, 90–10 Grand Central Parkway, East Elmhurst, NY 11369. For further information contact Ted Lopatkiewicz, Office of Public Affairs, National Transportation Safety Board, 490 L'Enfant Plaza East, SW., Washington, DC 20594, telephone (202) 382–0660.

Dated: May 18, 1992.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 92–12171 Filed 5–22–92; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Dosimetry Processors' Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will hold a meeting with major dosimetry processors to discuss the electronic transmission of occupational radiation exposure data. Interested members of the public are invited to attend. Copies of the regulatory guide dealing with this subject may be examined at the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC.

DATE: May 21, 1992.

TIME: 1 p.m.

ADDRESS: Clarion Hotel, 9700 International Drive, Orlando, Florida.

FOR FURTHER INFORMATION CONTACT: Ms. Charleen T. Raddatz, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3745.

Dated at Rockville, Maryland, this 15 day of May 1992.

For the Nuclear Regulatory Commission.

Frank A. Costanzi,

Deputy Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 92–12097 Filed 5–22–92; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Ad Hoc Subcommittee on Design Acceptance Criteria; Meeting

The ACRS Ad Hoc Subcommittee on Design Acceptance Criteria will hold a meeting on June 3, 1992, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, June 3, 1992–8:30 a.m. Until 12 Noon

The Ad Hoc Subcommittee will continue its discussion regarding the use of Design Acceptance Criteria (DAC) in the regulatory process and other related matters.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Ad Hoc Subcommittee along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Ad Hoc Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this matter. Representatives of the General Electric Company will also participate, as appropriate.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Dr. Medhat El-Zeftawy (telephone 301/492-9901) between 7:30 a.m. and 4:15 p.m., e.s.t. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: May 14, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92-12098 Filed 5-22-92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Thermal Hydraulic Phenomena; Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on June 2, 1992, in room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss information deemed proprietary to the General Electric Company (GE) pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Tuesday, June 2, 1992—8:30 a.m. until the conclusion of business

The Subcommittee will continue its review of the General Electric Company's proposed test program to support certification of the Simplified Boiling Water Reactor (SBWR) design and the associated NRC staff evaluation.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, the General Electric Company, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Paul Boehnert (telephone 301/492-8558) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occured.

Dated: May 18, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92-12201 Filed 5-22-92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on June 4-6, 1992, in room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the **Federal Register** on April 15, 1992.

Thursday June 4, 1992

8:30 a.m.-8:45 a.m.: Opening Remarks by ACRS Chairman (Open)

The ACRS Chairman will make opening remarks and comment briefly regarding items of current interest.

8:45 a.m.-11 a.m.: GE Simplified Boiling Water Reactor (Open/Closed)

The Committee will review and report on the proposed test program for this standardized nuclear power plant. Representatives of the GE Company and the NRC staff will participate, as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

11 a.m.-12:30 p.m.: Implementation of NRC Quantitative Safety Goal Policy (Open)

The Committee will discuss proposed ACRS recommendations for an alternate plan to implement the NRC quantitative safety goal policy.

1:30 p.m.-2:30 p.m.: Generic Issue 23: Reactor Coolant Pump Seal Failures (Open)

The Committee will hear a briefing by representatives of the NRC staff regarding activities under way to resolve this matter.

2:45 p.m.-4 p.m.: Fitness for Duty (Open)

The Committee will review and report on a proposed revision to 10 CFR part 26, Fitness for Duty Programs. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

4 p.m.-5:45 p.m.: Certification of Evolutionary and Passive Plant Designs (Open)

The Committee will discuss policy issues identified by the NRC staff which must be resolved in order to certify the designs of evolutionary and passive light-water reactor plants.

Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

5:45 p.m.-6:15 p.m.: Review of Individual Plant Examinations (Open)

The Committee will discuss proposed ACRS activities and recommendations regarding review of the Individual Plant Examinations being completed for nuclear power plants.

6:15 p.m.-6:45 p.m.: Preparation of ACRS Reports (Open)

The Committee will discuss proposed Committee comments and recommendations

regarding matters considered during this meeting.

Friday, June 5, 1992

8:30 a.m.–9 a.m.: EPRI Requirements for Passive Light Water Reactors (Open)

The Committee will discuss plans for consideration of proposed EPRI requirements for passive light water reactors. Representatives of the NRC staff will participate, as appropriate.

9 a.m.–9:30 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)

The Committee will discuss the NRC staff reaction to ACRS comments and recommendations regarding applicable regulatory matters.

9:45 a.m.–12 Noon: Implementation of NRC Quantitative Safety Goal Policy (Open)

The Committee will continue discussion of proposed ACRS recommendations for an alternate plan to implement the NRC quantitative safety goal policy.

1 p.m.–4:15 p.m.: Severe Accident Research Program Plan (Open)

The Committee will review and report on the proposed revision to the NRC Severe Accident Research Program Plan (NUREG–1365). Representatives of the NRC staff will participate, as appropriate.

4:15 p.m.–5:15 p.m.: Implementation of Revised 10 CFR part 20, Standards for Protection Against Radiation (Open)

The Committee will review and report on proposed NRC Regulatory Guides to implement the revised 10 CFR part 20 Standards for Protection Against Radiation, including Regulatory Guide 8.7, Revision 1, Recording and Reporting Occupational Exposure and Regulatory Guide 8.N.6, Planned Special Exposure. Representatives of the NRC staff will participate, as appropriate.

5:15 p.m.–5:45 p.m.: Resolution of Generic Issue 81, Impact of Locked Doors and Barriers on Plant and Personnel Safety (Open)

The Committee will discuss NRC staff reanalysis of this generic issue.

5:45 p.m.–6:30 p.m.: Preparation of ACRS Reports (Open)

The Committee will discuss proposed comments and recommendations regarding matters considered during this meeting.

Saturday, June 6, 1992

8:30 a.m.–11 a.m.: Preparation of ACRS Reports (Open)

The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

11:00 a.m.–12 Noon: ACRS Subcommittee Activities (Open/Closed)

The Committee will hear reports and hold a discussion on designated subcommittee activities, including the planning of Committee activities, appointment of ACRS members, and the use of design acceptance criteria in the regulatory process.

Portions of this session will be closed as necessary to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

1 p.m.–2:30 p.m.: Miscellaneous (Open)

The Committee will complete discussion of issues considered during this meeting and items which were not completed at previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1991 (56 FR 49800). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director, Mr. Raymond F. Fraley, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss Proprietary Information applicable to the matters being considered in accordance with 5 U.S.C. 552b(c)(4), information provided in confidence by a foreign source per 5 U.S.C. 552b(c)(4), and information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492–8049), between 8 a.m. and 4:30 p.m. e.s.t.

Dated: May 19, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92–12202 Filed 5–22–92; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

List of Designated Federal Entities and Federal Entities

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: This notice provides a list of Designated Federal Entities and Federal Entities, as required by the Inspector General Act Amendments of 1988.

FOR FURTHER INFORMATION CONTACT: Jack Donahue (telephone: 202/395–6911), Office of Federal Financial Management.

SUPPLEMENTARY INFORMATION: This notice provides a copy of the 1992 List of Designated Federal Entities and Federal Entities, which the Office of Management and Budget is required to publish annually under the Inspector General Act Amendments of 1988 (Pub. L. 100–504).

The List is divided into two groups: Designated Federal Entities and Federal Entities. The Designated Federal Entities are required to establish and maintain Offices of Inspector General. The 33 Designated Federal Entities are as listed in the Inspector General Act Amendments of 1988. Hence, the 1992 list of them is unchanged from the 1991 list.

Federal Entities are required to report annually to each House of the Congress and the Office of Management and Budget on audit and investigative activities in their organizations. Federal Entities are defined as "any Government controlled corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive branch of the Government, or any independent regulatory agency" other than the Executive Office of the President and agencies with statutory Inspectors General. There are seven changes in the 1992 list from the 1991 list.

The List was prepared in consultation with the U.S. General Accounting Office.

John B. Arthur,

Assistant Director for Administration.

Herein follows the text of the 1992 List of Designated Federal Entities and Federal Entities:

1992 List of Designated Federal Entities and Federal Entities

Public Law 100-504. The Inspector General Act Amendments of 1988 require the Office of Management and Budget to publish a list of "Designated Federal Entities" and "Federal Entities" and the heads of such entities. Designated Federal Entities were required to establish Offices of Inspector General before April 17, 1989. Federal Entities are required to report annually, by October 31, 1992, to each House of the Congress and the Office of Management and Budget on audit and investigative activities in their organizations.

Designated Federal Entities and Entity Heads

1. ACTION—Director.
2. Amtrak—Chairperson.
3. Appalachian Regional Commission—Federal Co-Chairperson.
4. The Board of Governors, Federal Reserve System—Chairperson.
5. Board for International Broadcasting—Chairperson.
6. Commodity Futures Trading Commission—Chairperson.
7. Consumer Product Safety Commission—Chairperson.
8. Corporation for Public Broadcasting—Board of Directors.
9. Equal Employment Opportunity Commission—Chairperson.
10. Farm Credit Administration—Chairperson.
11. Federal Communications Commission—Chairperson.
12. Federal Deposit Insurance Corporation—Chairperson.
13. Federal Election Commission—Chairperson.
14. Federal Housing Finance Board—Chairperson.
15. Federal Labor Relations Authority—Chairperson.
16. Federal Maritime Commission—Chairperson.
17. Federal Trade Commission—Chairperson.
18. Interstate Commerce Commission—Chairperson.
19. Legal Services Corporation—Board of Directors.
20. National Archives and Records Administration—Archivist of the United States.
21. National Credit Union Administration—Board of Directors.
22. National Endowment for the Arts—Chairperson.
23. National Endowment for the Humanities—Chairperson.
24. National Labor Relations Board—Chairperson.
25. National Science Foundation—National Science Board.
26. Panama Canal Commission—Chairperson.
27. Peace Corps—Director.
28. Pension Benefit Guaranty Corporation—Chairperson.
29. Securities and Exchange Commission—Chairperson.
30. Smithsonian Institution—Secretary.
31. Tennessee Valley Authority—Board of Directors.
32. United States International Trade Commission—Chairperson.
33. United States Postal Service—Postmaster General.

Federal Entities and Entity Heads

1. Administrative Conference of the United States—Chairperson.
2. Advisory Commission on Intergovernmental Relations—Chairperson.
3. Advisory Commission on Federal Pay—Chairperson.
4. Advisory Council on Historic Preservation—Chairperson.
5. African Development Foundation—Chairperson.
6. American Battle Monuments Commission—Chairperson.
7. Architectural and Transportation Barriers Compliance Board—Chairperson.
8. Barry Goldwater Scholarship and Excellence in Education Foundation—Chairperson.
9. Chemical Safety and Hazard Investigation Board—Chairperson.
10. Christopher Columbus Quincentenary Jubilee Commission—Chairperson.
11. Citizens Commission on Public Services and Compensation—Chairperson.
12. Commission for the Preservation of America's Heritage Abroad—Chairperson.
13. Commission of Fine Arts—Chairperson.
14. Commission on Agricultural Workers—Chairperson.
15. Commission on the Bicentennial of the United States Constitution—Chairperson.
16. Commission on Civil Rights—Chairperson.
17. Commission on National and Community Service—Chairperson.
18. Committee for Purchase from the Blind and other Severely Handicapped—Chairperson.
19. Competitiveness Policy Council—Chairperson.
20. Defense Nuclear Facilities Safety Board—Chairperson.
21. Delaware River Basin Commission—U.S. Commissioner.
22. Export-Import Bank—President and Chairperson.
23. Farm Credit System Assistance Board—Chairperson.
24. Farm Credit System—Financial Assistance Corporation—Chairperson.
25. Farm Credit System Insurance Corporation—Board of Directors.
26. Federal Mediation and Conciliation Service—Director.
27. Federal Mine Safety and Health Review Commission—Chairperson.
28. Federal Retirement Thrift Investment Board—Chairperson.
29. Franklin Delano Roosevelt Memorial Commission—Chairperson.
30. Harry S. Truman Scholarship Foundation—Chairperson.
31. Illinois and Michigan Canal National Heritage Corridor Commission—Chairperson.
32. Institute of Museum Services—Board of Directors.
33. Inter-American Foundation—Chairperson.
34. Interagency Council on the Homeless—Chairperson.
35. International Cultural and Trade Center Commission—Chairperson.
36. Interstate Commission on the Potomac River Basin—Chairperson.
37. James Madison Memorial Fellowship Foundation—Chairperson.
38. Japan-U.S. Friendship Commission—Chairperson.
39. Marine Mammal Commission—Chairperson.
40. Martin Luther King, Jr. Federal Holiday Commission—Chairperson.
41. Merit Systems Protection Board—Chairperson.
42. National Capital Planning Commission—Chairperson.
43. National Commission on Libraries and Information Science—Chairperson.
44. National Commission on Migrant Education—Chairperson.
45. National Commission on Responsibilities for Financing Postsecondary Education—Chairperson.
46. National Commission to Prevent Infant Mortality—Chairperson.
47. National Council on Disability—Chairperson.
48. National Endowment for Democracy—Chairperson.
49. National Gallery of Art—Board of Trustees.
50. National Mediation Board—Chairperson.
51. National Transportation Safety Board—Chairperson.

52. Neighborhood Reinvestment Corporation—Chairperson.
53. Nuclear Waste Technical Review Board—Chairperson.
54. Occupational Safety and Health Review Commission—Chairperson.
55. Office of Government Ethics—Director.
56. Offices of Independent Counsels—Independent Counsels.
57. Office of Navajo and Hopi Indian Relocation—Chairperson.
58. Office of Special Counsel—Special Counsel.
59. Office of the Nuclear Waste Negotiator—Negotiator.
60. Overseas Private Investment Corporation—Board of Directors.
61. Pennsylvania Avenue Development Corporation—Chairperson.
62. Postal Rate Commission—Chairperson.
63. Resolution Trust Corporation Oversight Board—Chairperson.
64. Selective Service System—Director.
65. State Justice Institute—Director.
66. Susquehanna River Basin Commission—U.S. Commissioner.
67. U.S. Holocaust Memorial Council—Chairperson.
68. U.S. Institute of Peace—Chairperson.
69. U.S. Naval Home—Director.
70. U.S. Soldiers' and Airmen's Home—Director.
71. Woodrow Wilson International Center for Scholars—Board of Trustees.

[FR Doc. 92-12162 Filed 5-22-92; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30710; File No. SR-DGOC-92-01]

Self-Regulatory Organization; Delta Government Options Corp.; Notice of Filing of a Proposed Rule Change Relating to Credit Enhancement Facility and Margin and Trading Limits

May 18, 1992.

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b), notice is hereby given that on April 14, 1992, Delta Government Options Corp. ("DGOC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Propsoed Rule Change

DGOC is filing herewith a proposed rule change relating to its policies with regard to the Credit Enhancement Facility ("CEF") which DGOC proposes to carry, and the times and circumstances in which, among others, it will utilize its existing powers under its procedures to call for additional margin or set trading limits for participants. DGOC at present carries a CEF in the aggregate amount of $200,000,000 consisting of a letter of credit in the amount of $100,000,000 provided by Security Pacific National Bank and a surety bond in the amount of $100,000,000 with per participant limit of $20,000,000 provided by Capital Market Assurance Corporation ("CapMAC"). DGOC proposes to replace the existing CEF with a new CEF in the maximum amount of $150,000,000 with a per participant sublimit of $30,000,000 to be provided by CapMAC.

DGOC's procedures call for it to maintain at all times CEF in an amount equal to three times Maximum Potential System Exposure ("MPSE"), as defined in its procedures. DGOC is not changing this part of its procedures nor is it making any changes to its present procedures which provide to DGOC the ability to set trading limits for participants on an individual basis and to call for additional margin from participants on an individual basis. Rather, DGOC is proposing to change its policy with regard to the amount of CEF it will carry and with regard to the times and circumstances in which it will exercise its currently existing powers to set trading limits and call for additional margin. DGOC will monitor each participant's contribution to MPSE. At those times when one or more participants approach the new CEF's per participant sublimit, DGOC will call upon those participants to provide additional margin in accordance with DGOC's existing powers in Section 603 of its procedures, will set trading limits as permitted in Section 204 of its procedures, or will avail itself of any of its other rights, powers, and remedies that are provided by its procedures. DGOC's proposed change in policy does not necessitate any change or additions to its written procedures.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DGOC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the propsoed rule change. The text of these statements may be examined at the places specified in Item IV below. DGOC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DGOC is proposing to change the CEF in the manner described above and its policies regarding the times and circumstances in which it will set position limits and call for additional margin to include those described herein for the purpose of more equitably allocating the costs of carrying the CEF upon those participants that enter into transactions or maintain positions in the Over-the-Counter Trading System that give rise to disproportionate amounts of MPSE in comparison to other participants. DGOC is also proposing the changes for the purpose of streamlining the applicant approval process. Under DGOC's present procedures, an applicant to use the system must be approved by all entities that have issued part of the CEF as well as DGOC. Thus, Security Pacific National Bank, in its capacity as issuer of the letter of credit, and CapMAC, in its capacity as issuer of the surety bond, must both approve an applicant before it can become a participant in the system. By requiring three different approvals, as well as having to provide information and documentation to three different entities, the participant application process is made cumbersome. DGOC has recieved information from applicants and participants that the process involved in becoming approved (as distinguished from the necessity and importance for careful review and approval) is a negative for the system and has discouraged potential applicants. Thus, by making this process more efficient through having the CEF provided by only one entity, DGOC hopes that usage of the system will increase through an increase in its participant base. This will result in more transactions being cleared in a automated clearance and settlement system operated by a registered clearing agency.

DGOC has reviewed its systems and procedures in light of the intended change in the CEF. DGOC's review indicates that the change will have no adverse impact on its operational system and procedures and the safety

and soundness of those systems and procedures. Further, in light of the level of usage of the Over-the-Counter Options Trading System and all procedures available to DGOC, DGOC believes that the change in the CEF will have no adverse impact on the overall safety and soundness of the system.

Therefore, DGOC believes that the proposed change to its policies described in the proposed rule change is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder applicable to DGOC because the propsoed rule change will permit more utilization of the system by those participants that wish to hedge against or speculate on changes in treasury security interest rates thereby allowing for participants to have their trades settled in an automated clearance and settlement system.

B. Self-Regulatory Organization's Statement on Burden on Competition

DGOC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Not applicable.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DGOC. All submissions should refer to File No. SR-DGOC-92-01 and should be submitted by June 16, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-12193 Filed 5-22-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30709; File No. SR-OCC-92-8]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Clearing Management and Control System

May 18, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 17, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would make permanent the amendments to OCC's By-Laws and Rules which were approved by the Commission on a pilot basis in Release No. 34-28836.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On August 8, 1990, OCC filed a rule change with the Commission that proposed to establish a pilot program for an enhancement to OCC's Clearing Management and Control System ("C/MACS").[2] That enhancement permits on-line access to clearing reports by clearing members. Such access is accomplished through existing C/MACS equipment and, therefore, is subject to all C/MACS security procedures.

With the approval of OCC's on-line report inquiry system on a pilot basis, OCC has offered this service to all clearing members. Since the installation of this system, OCC has not experienced any system failures, and clearing member response to the system has been highly favorable. The on-line report inquiry system has proven to be a more efficient means of making clearing reports available to clearing members. Accordingly, OCC proposes to make permanent the changes to its By-Laws and Rules which established on the on-line report inquiry system.[3]

OCC believes the proposed rule change is in accordance with section 17A of the Act in that it creates the opportunity for more efficient, effective, and safe procedures for the clearance and settlement of options transactions through the use of automation without adversely affecting the securities under OCC's custody or control or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] C/MACS provides for on-line imput of post-trade and exercise-by-exception information by clearing members.

[3] OCC will continue to print and distribute to clearing members the Daily Position Activity Report and Initial Transaction Statement to perfect its issuers' liens under Article 8 of the Uniform Commercial Code.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited by OCC for the proposed rule change, and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds that such longer period is appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements regarding the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-92-8 and should be submitted by June 16, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-12194 Filed 5-22-92; 8:45 am]

BILLING CODE 8010-01-M

[4] 17 CFR 200.30-3(a)(12) (1991).

[Release No. 34-30714; File No. SR-OCC-91-08]

Self-Regulatory Organizations; the Options Clearing Corporation, Inc.; Order Approving a Proposed Rule Change Relating to an Emergency Powers Provision

May 18, 1992.

On April 24, 1991, The Options Clearing Corporation ("OCC") submitted a proposed rule change (File No. SR-OCC-91-08) to the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] to provide for emergency powers. Notice of the proposal appeared in the **Federal Register** on July 12, 1991, to solicit comment from interested persons.[2] OCC amended the proposal on November 7, 1991,[3] and on February 10, 1992, to clarify procedural aspects of the rule.[4] No comments were received by the Commission. This order approves the proposal, as amended.

I. Description of the Proposal

The proposed rule change will create an emergency powers provision as new section 15 (Emergency Powers) of article III (Board of Directors) of the OCC By-Laws. The provision is based in part on the Delaware Corporation Code, Chapter 110, which is captioned "Emergency By-laws and Other Powers in an Emergency." [5] The OCC provision would not be self-executing and would become operative only in the event of: (1) The occurrence of one or more specified emergencies; [6] and (2) a declaration by the Chairman of OCC or, if it is not feasible for the Chairman of OCC to take action, by an OCC designated officer who would have been authorized to take such action by the OCC Board of Directors ("Board"),[7] that such an emergency exists and that the proposed by-law is in operation.

The proposal states that, before invoking the emergency provision, the OCC Chairman or the designated officer will consult with the Commission, on a best effort basis (although the emergency authority will not be conditioned on such consultation), and that OCC shall advise the Commission as soon as practicable by telephone, with confirmation in writing, of such an emergency declaration and shall prepare and maintain records of the emergency situation.[8] Likewise, when OCC terminates any such emergency situation, it shall inform the Commission by telephone, with confirmation in writing, as soon as practicable thereafter.[9]

The proposed rule change designates certain officers who upon the declaration of an emergency would be authorized to: (1) Serve as temporary directors; and (2) be included for the purpose of meeting a quorum call for any meeting of the Board or of any Committee of the Board, if the members of the Board or of any such Committee otherwise would be unable to convene readily for business,[10] provided, however, that for the purpose of providing a quorum for such special meetings of the Board, officers shall be designated as directors only to the extent necessary to provide a quorum [11] and in order of priority as determined by resolution of the Board.[12] The designated directors, although not formally elected as OCC directors, would be deemed directors of OCC under the emergency provisions for purposes of convening meetings of the Board and would be authorized to participate in any action available to the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 29400 (July 3, 1991), 56 FR 31977.

[3] Letter to Thomas C. Etter, Jr., Attorney, Division of Market Regulation, Commission, from Jean M. Cawley, Attorney, OCC, dated November 6, 1991.

[4] Letter to Ester Saverson, Jr., Branch Chief, Division of Market Regulation, Commission, from Jean M. Cawley, Attorney, OCC, dated February 4, 1992.

[5] Del. Stat. Ann., Tit. 8, Ch. 110. OCC is incorporated under the laws of the State of Delaware.

[6] Proposed OCC By-Laws, Art. III, section 15(a) defines "emergency" as:

* * * Any emergency which results, directly or indirectly, from an attack (including a terrorist attack) on the United States or on a locality in which the [OCC] maintains an office or customarily holds meetings of the Board of Directors, or from a war, armed hostilities, insurrection or other calamity involving the United States or any such locality, or from any nuclear or atomic disaster, or from any other catastrophe, disaster (including any environmental or natural disaster), communications systems failure, or other similar condition * * *."

[7] Interpretation and Policy .01 ("Interpretation .01") of proposed OCC By-Laws, Article III, Section 15 lists the following officers (in order of priority) as designated officers: the President, any Senior Executive Vice President, any Executive Vice President, any Senior Vice President, and any First Vice President.

[8] Proposed OCC By-Laws, Art. III, section 15(a).

[9] *Id.*, section 15(f).

[10] Proposed OCC By-Laws, Art. III, section 15(c). OCC's quorum requirement provides that the Board may transact no business, other than adjournment, without a quorum present at a meeting. OCC By-Law, Art. III, section 13.

[11] The term "quorum" is defined in OCC's rules to mean a majority of the directors then in office but not less than six directors. *Id. See also* proposed section 15(a).

[12] *Supra*, note 7.

Board, including the approval of OCC rule changes for filing with the Commission.[13]

Additionally, under the proposal, the existing requirements governing notice of Board meetings would not apply, and Board meetings could be convened: (1) On thirty minutes notice, and (2) without notification of the purpose of the meeting or the business to be transacted.[14] The emergency provisions, if and when invoked, would suspend the existing provisions of Article XI (General Provisions) of the OCC By-Laws which, among other things, require an affirmative vote of two-thirds of the directors then in office in order to amend the By-Laws. Instead, under the proposed rule change, the OCC By-Laws and Rules could be amended by affirmative vote of a majority of directors (including officers designated as directors) at a Board meeting; provided, however, that any amendments approved by less than the two-thirds affirmative vote required by Article XI (Amendment of the By-Laws and the Rules) of OCC's By-Laws would remain in effect no longer than thirty days following the termination of the emergency.[15] The proposal provides that the Board, acting under the emergency provisions, may establish a managerial hierarchy of the designated officers to exercise any authority granted by OCC's By-Laws and Rules to the Chairman or the President, if either of them should be unavailable at the time of the emergency.[16]

II. Discussion

The Commission believes that the proposed rule change is consistent with the Act, particularly Section 17A of the Act.[17] Congress has stated that the securities markets, including the national system for the clearance and settlement of securities transactions, are important national assets and indispensable to the economy.[18] Congress further has stated that the operations of these markets must be orderly and efficient and that the securities industry's self-regulatory system should be preserved.[19] Moreover, section 17A(b)(3)(F) of the Act [20] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to safeguard securities and funds that are in a clearing agency's custody or control or for which it is responsible.

The Commission notes that this proposal was prompted by various concerns of a military, nuclear, and terrorist nature that arose during the Persian Gulf War. While the proposal was initiated to address the possibility of such wartime emergencies, the proposal also would address emergencies of a different nature. These emergencies would include, but would not be limited to, acts of God in the form of environmental disasters such as earthquakes, blizzards, floods, and hurricanes, and disasters that generally are man-made such as fires, explosions, water or gas line ruptures, power failures, and telecommunications failure.[21]

The Commission recognizes that the members of OCC's Board are geographically dispersed and that during an emergency situation it could become exceedingly difficult for the Board members to convene and perform their duties as directors.[22] The Commission believes that the proposed rule change will provide OCC with the necessary authority to continue the orderly and efficient processing of securities transactions during emergency situations.

Section 17A(b)(3)(C) of the Act [23] requires that the rules of a clearing agency provide for the fair representation of its stockholders, members, and participants in the selection of directors and the administration of its affairs. The need for fair representation, however, must be balanced with a clearing agency's operating efficiency and with the needs of the marketplace and the public interest. Although the use of the proposed emergency provision may cause some infringement of the fair representation provision of section 17A(b)(3)(C) of the Act, the proposal is designed to be used only on occasions when the directors are unable to meet and when Board action is needed quickly. Thus, any infringement on the members' right to fair representation would be limited to times of extraordinary emergencies. Under these circumstances, the Commission believes that OCC's rule proposal achieves an appropriate balance between the members' right to fair representation and the need to provide continued and efficient clearance and settlement for securities transactions in times of extraordinary emergencies.

Moreover, the Commission expects that OCC will consult with Commission staff, to the extent possible, before any emergency action is taken, in accordance with the proposal approved today. In the event of such consultation, the Commission will expect OCC to consider ways to facilitate the fair representation goals of the Act in the context of the existing circumstances, and the Commission will consider whether any proposed action is consistent with those goals in determining whether to approve or disapprove such action under section 19(b) of the Act.

III. Conclusion

For the reasons discussed in this order, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

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[13] *Id.*, section 15(c). OCC's Board-approved rule changes still will have to be submitted to the Commission pursuant to Section 19(b) of the Act, 15 U.S.C. section 78s(b). This proposed rule change, notwithstanding the fact that it is designed to apply in emergency situations, will neither alter nor authorize OCC to alter OCC's filing or other legal obligations that are mandated under the Act.

[14] Proposed OCC By-Laws, Art. III, section 15(b). Under OCC's current rules, "regular meetings" of the Board are held on a prescribed monthly basis with no requirement of specific notice to the Board members, and "special meetings" of the Board may be called with specific notice to the Board members. For existing notice requirements, *see* OCC By-Laws, Art. III, section 14.

[15] Proposed OCC By-Laws, Art. III, section 15(d).

[16] *Id.*, section 15(e).

[17] 15 U.S.C. section 78q-1 (1988).

[18] Section 11A(a)(1) of the Act, 15 U.S.C. 78k-1(a)(1); Senate Comm. on Banking, Housing & Urb. Aff., Report to Accompany S. 249 (Securities Acts Amendments of 1975), S. Rep. No. 75, 94th Cong. 1st Sess. 3-6 (1975); Senate Subcomm. on Securities, "Securities Industry Study," S. Doc. No. 13, 92nd Cong. 1st Sess., 2-3 (1973).

[19] *Id.*

[20] 15 U.S.C. 78q-1(b)(3)(F) (1988).

[21] Most recent emergency situations affecting securities industry operations have been in the nature of man-made disasters (*e.g.*, accidental power failures and telecommunications failures). The most disruptive disasters in recent years were: (1) the San Francisco earthquake of 1989, which disrupted operations at the Pacific Stock Exchange and caused its San Francisco trading floor to be closed for three days and (2) the Chicago flood of 1992, which did not cause any closings of Chicago securities exchanges or clearing agencies but did shut down some Chicago banks and Chicago commodities futures exchanges which affected settlement schedules and cross-margining programs for securities.

[22] In accordance with its rules [OCC By-Laws, Art. III, Section 1], OCC's Board of 16 persons consists of only one OCC officer (*i.e.*, the Chairman). The remaining 15 members are composed of nine representatives of OCC clearing members and six representatives of securities exchanges, both of which are nation-wide constituencies, meaning that OCC's Board members are widely dispersed geographically and that it could be difficult for them to assemble in the event of an emergency. OCC states in its rule filing that the proposed rule change will provide it with maximum flexibility to respond to extraordinary situations. OCC further asserts that, in light of the recent Persian Gulf War and the risks of other potential disasters, including both environmental and man-made disasters, such flexibility is necessary so that OCC may continue to serve the securities markets, its clearing membership, and the investing public in a timely, orderly, and fair fashion in event of an emergency situation.

[23] 15 U.S.C. 78q-1(b)(3)(C) (1988).

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[24] that the above-mentioned proposed rule change (File No. SR-OCC-91-08), as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 92-12195 Filed 5-22-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30720; File No. SR-PTC-92-06]

Self-Regulatory Organizations; Participants Trust Company; Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Modification of the Registration Fee

May 19, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on April 10, 1992, Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-PTC-92-06) as described in Items I, II, and III below, which Items have been prepared by PTC, a self-regulatory organization ("SRO"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule filing consists of changes to the text of PTC's Participants' Operating Guide ("Guide"),[2] which advises participants of the new fee imposed by Government National Mortgage Association ("GNMA") for re-registering GNMA securities deposited to and registered by Chemical Bank of New York, acting as GNMA's transfer agent. The new fee, effective as of April 1, 1992, is $10.00 per securities pool, regardless of the number of certificates comprising each pool. Payment is made by participants to Chemical Bank as GNMA's transfer agent.

II. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the SRO included statements concerning the purpose of and basis for the proposed rule change and discussed any comments received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The SRO has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. SRO's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule filing is to advise participants, on behalf of GNMA, that GNMA has reimposed a re-registration fee on deposits of GNMA certificates to PTC which are then registered by Chemical Bank, as GNMA's transfer agent. The fee is $10.00 per pool, regardless of the number of certificates presented for each pool. This fee had previously been waived by GNMA. The proposed fee is to be paid by the participant by check drawn to the order of Chemical Bank, as transfer agent. As required by section 17A(b)(3)(A),[3] the proposed fee will be equitably allocated among PTC's participants.

B. SRO's Statement on Burden on Competition

PTC does not perceive that the proposed rule change imposes any burden on competition.

C. SRO's Statement on Comments on the Proposed Rule Change

PTC has not solicited, and does not intend to solicit, comments on this proposed rule change. PTC has not received any unsolicited written comments from participants or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [4] and subparagraph (e) of Securities Exchange Act Rule 19b-4 [5] because the proposed rule change effects a change in fees charged by PTC to its participants. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise, in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to File Number SR-PTC-92-06 and should submitted by June 16, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-12239 Filed 5-22-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IA-1310; 803-64]

PaineWebber T.C., Inc.; Application

May 18, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for exemption under the Investment Advisers Act of 1940 (the "Advisers Act").

APPLICANT: PaineWebber T.C., Inc.

RELEVANT ADVISERS ACT SECTIONS: Applicant seeks an order under section 206A granting an exemption from section 205(a)(1).

SUMMARY OF APPLICATION: Applicant, a registered investment adviser to a limited partnership that invests primarily in real estate limited partnerships, seeks an order that would allow it to receive compensation based on the capital appreciation of the partnership's assets.

FILING DATES: The application was filed on April 17, 1989, and amended on November 4, 1991.

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[24] 15 U.S.C. 78s(b)(2) (1988).

[25] CFR 200.30-3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Guide, pp. 7-8, 7-10, 7-11, 7-22, 7-23 (June 1991).

[3] 15 U.S.C. 78q-1(b)(3)(D) (1989).

[4] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[5] 17 U.S.C. 240.19b-4(e) (1991).

[6] 17 CFR 200.30-3(a)(12) (1991).

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 12, 1992, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 1600 Broadway, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Staff Attorney, at (202) 272–3035, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. National Tax Credit Partners, L.P. (the "Partnership") was organized as a California limited partnership in 1989, and has registered its units under the Securities Act of 1933. In the initial offering, each Partnership unit consisted of two limited partnership interests (the "Limited Partnership Interests") and one warrant (the "Warrants") granting an investor the right to purchase, for $2500 each, one additional limited partnership interest (the "Additional Limited Partnership Interests") between January 1, 1990 and January 31, 1990. Upon completion of the offering, the Partnership had sold an aggregate of 23,899 Limited Partnership and Additional Limited Partnership Interests.

2. The Partnership operates primarily as a "two-tier" limited partnership, in that it invests as a limited partner in other existing or to be formed limited partnerships (the "Local Partnerships") that in turn, own and operate one or more existing, newly-constructed, or rehabilitated multifamily housing complexes (the "Apartment Complexes") eligible for (a) low-income housing tax credits (the "Housing Tax Credits") under section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), or (b) historic rehabilitation tax credits (the "Historic Tax Credits") under section 48 of the Code (collectively, the "Tax Credits") and either Housing Tax Credits or other government programs promoting low-or moderate-income housing. To date, all Local Partnerships in which the Partnership has invested are limited partnerships, although the Partnership is permitted to invest in general partnerships or similar entities having comparable economic and control provisions in favor of the Partnership. The Partnership has not sold or otherwise disposed of any of its Local Partnership investments and, with one exception, has not invested in any Local Partnership in which it has less than a fifty percent economic interest. The Partnership's investment objectives are: (a) To provide Qualified Investors (as defined below) current tax benefits in the form of Tax Credits to offset their federal income tax liability; (b) to preserve the Partnership's capital; and (c) to provide cash distributions.

3. Applicant, a Delaware corporation that is a wholly owned subsidiary of PaineWebber Group, Inc., serves as the Special Limited Partner of the Partnership. Applicant is under common control with PaineWebber Incorporated, a registered broker-dealer and investment adviser that acted as Selling Agent in connection with the offering of Partnership interests. Applicant also is under common control with Mezzanine Capital Corporation, a registered investment adviser and the administrative general partner of Kagan Media Partners, L.P. Applicant oversees the Partnership's investment through its right to appoint and remove three of the six members of the Partnership's Investment Committee, which must approve unanimously any acquisition, sale, or refinancing of a Local Partnership interest or Apartment Complex. Applicant also evaluates prospective investments, and makes recommendations to the Investment Committee. Applicant is a registered investment adviser.

4. The Partnership's sole general partner is National Partnership Investments Corp. (the "General Partner"). The General Partner has primary responsibility for, and ultimate authority over, supervising the Partnership's operations, including selecting Partnership investments for submission to the Investment Committee, supervising the operation of the Apartment Complexes owned by the Local Partnerships, supervising compliance with legal and regulatory requirements, and preparing and transmitting periodic and annual reports to the limited partners. The General Partner has the right to appoint and remove three members of the Partnership's Investment Committee.

5. The Partnership is governed by certain investment policies that may not be changed without the approval of the holders of a majority of the outstanding Limited Partnership Interests. For example, apart from certain short-term interim investments, all of the Partnership's capital (net acquisition fees, acquisition expenses, and amounts allocated to reserves) must be invested in Local Partnerships and Apartment Complexes. In addition, the Partnership will seek to reduce or avoid Tax Credit recapture and gain recognition by not selling any Local Partnership interest or Apartment Complex for at least 15 years (except for properties qualifying for Historic Tax Credits, which may be sold earlier). Finally, the Partnership does not contemplate reinvestment of the proceeds resulting from a sale or refinancing of an Apartment Complex (except for proceeds from certain dispositions of Apartment Complexes resulting from circumstances beyond the control of the Partnership, such as a casualty or condemnation, or a breach of a local general partner's representations, warranties, or covenants to the Partnership).

6. Each subscriber for Partnership units represented that he or she met the following suitability standards for "Qualified Investors:" (a) Corporations generally must reasonably expect to have substantial unsheltered income against which the Tax Credits can be utilized for most of the ten years subsequent to investment; and (b) noncorporate investors must reasonably expect to have annual adjusted gross income of $200,000 or less or to have substantial unsheltered passive activity income for each of the ten years subsequent to investment, and either (i) have a net worth (exclusive of home, furnishings, and automobiles) of at least $30,000 and an annual gross income of not less than $30,000 in the current year, (ii) have a net worth (exclusive of home, furnishings, and personal automobiles) of at least $75,000, or (iii) be purchasing in a fiduciary capacity for a person meeting the requirements set forth in clauses (i) or (ii).

7. Pursuant to the Partnership's Amended and Restated Agreement of Limited Partnership (the "Partnership Agreement"), Applicant receives an Acquisition Fee in a maximum aggregate amount equal to 1% of the aggregate capital contributions of the Partnership's limited partners for selecting and evaluating Local Partnerships and

Apartment Complexes. A portion of the Acquisition Fee is payable at the time the Partnership acquires Local Partnership interests or Apartment Complexes. In addition, pursuant to a Consulting Agreement with the General Partner, Applicant has agreed to (a) monitor the continuing compliance of each Local Partnership and Apartment Complex with requirements for obtaining Tax Credits and participating in certain government assistance programs; and (b) coordinate communications between the Partnership and its limited partners. Under the Consulting Agreement, the General Partner will pay Applicant the following amounts: (a) 15% of the General Partner's Partnership Management Fee (which equals 0.5% annually of invested assets); and (b) 15% of the sale or Refinancing Proceeds (as such term is defined in the Partnership Agreement) distributed to the General Partner. Applicant's compensation from the Sale or Refinancing Proceeds is referred to as the "Sale or Refinancing Compensation." The Sale or Refinancing Compensation will be paid to Applicant at such times as, and only to the extent that, the General Partner receives Sale or Refinancing Proceeds.

8. The Sale or Refinancing Proceeds are distributed according to the following priority. After the repayment of certain liabilities of the Partnership, the Sale or Refinancing Proceeds first will be paid to the General Partner for any accrued but unpaid Partnership Management Fees. Thereafter, the General Partner will receive 1% and the limited partners (other than Applicant) will receive 99% of all distributions of such proceeds until the limited partners (other than Applicant) have received distributions of Sale or Refinancing Proceeds from the Partnership in an aggregate amount equal to (a) a cumulative return for each Limited Partnership Interest of 10% per annum simple interest on the net investment pertaining to such Limited Partnership Interest commencing on the date of the final closing of the sale of Partnership units (the "10% Priority Return") to the extent not theretofore satisfied through the distribution by the Partnership to limited partners of amounts from cash flow and prior distributions of Sale or Refinancing Proceeds, and (b) an amount equal to the aggregate capital contributions of the limited partners to the extent not theretofore satisfied out of returns of capital. Thereafter, the General Partner will be entitled to receive a Property Disposition Fee in an amount equal to up to 3% of the selling price of the Apartment Complexes or Local Partnership Interest (which fee is not payable with respect to any refinancing of an Apartment Complex or Local Partnership interest). Any remaining Sale or Refinancing Proceeds will be distributed 85% to the limited partners (other than Applicant), 15% to the General Partner and, in the case of a liquidation of the Partnership, in accordance with the partner's capital accounts, which should approximate the foregoing percentages. Gain from sales generally will be allocated among the General Partner, the limited partners, and Applicant consistent with the distribution of the corresponding sales proceeds.

Applicant's Legal Analysis

1. As a registered investment adviser, Applicant is subject to section 205(a)(1) of the Advisers Act, which provides in pertinent part, that no investment adviser shall enter into or perform any investment advisory contract that provides for compensation on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client. This prohibition reflects Congress' concern that such a "performance fee" might induce investment advisers to speculate excessively with clients' funds, or to over-trade. Applicant acknowledges that its Sale or Refinancing Compensation represents a performance fee under section 205(a)(1).

2. Rule 205–3 under the Advisers Act allows a registered investment adviser to a client with at least $500,000 under management or a net worth exceeding $1,000,000 to charge a performance fee under certain conditions. Applicant notes that the formula by which its Sale or Refinancing Compensation is calculated would not always reflect the realized capital losses from a sale of a Local Partnership interest or an Apartment Complex or unrealized capital depreciation as required by paragraph (c) of rule 205–3. Applicant also states that its investment advisory contract with the Partnership may not represent an arm's-length arrangement, as required by paragraph (e) of the rule. Accordingly, Applicant cannot rely on rule 205–3.

3. Applicant submits that the concerns underlying section 205(a)(1) would not be triggered by the requested performance fee. According to Applicant, the fact that the Partnership generally will hold its investments for at least fifteen years to avoid Tax Credit recapture and gain recognition will deter excessive speculation and over-trading. Moreover, Applicant does not realize any Sale or Refinancing Compensation until the other limited partners have received 100% of their invested capital plus the 10% Priority Return. Thus, Applicant cannot benefit immediately from speculative trading. Applicant also asserts that although the Local Partnership interests may be deemed "securities," such interests are as illiquid as the Apartment Complexes themselves, and are akin to direct ownership of real estate. Accordingly, it is not feasible to over-trade Local Partnership interests. Finally, Applicant represents that its receipt of the Sale or Refinancing Compensation is in compliance with the Statement of Policy on Real Estate Programs developed by the North American Securities Administrators Association, Inc.

4. Applicant contends that investment in low- and moderate-income housing is not economically suitable for private investors without the pass-through taxation and limited liability features of the limited partnership form. Indeed, the limited partnership is the vehice ordinarily used to raise equity capital from private investors for government-assisted housing, according to Applicant. Applicant believes that the practical effect of the Commission's failure to grant the requested exemption would be to discourage Applicant and similar investment banking firms from promoting entities such as the Partnership, by depriving such firms of the opportunity to obtain fees of the type typically obtained in connection with other real estate investment vehicles sponsored by those firms. According to Applicant, such an action could eliminate or substantially curtail the best available means of attracting private equity capital into government-assisted housing, and would frustrate Congress' desire to encourage the widest possible participation by private enterprise in providing housing for low- and moderate-income families. Applicant therefore contends that the requested exemption is both necessary and appropriate in the public interest.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–12196 Filed 5–22–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25535]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

May 15, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules

promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 8, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the releveant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Central and South West Corporation, et al. (70–7867)

Central and South West Corporation ("CSW"), a registered public-utility holding company; its wholly owned nonutility subsidiary, CSW Energy, Inc. ("Energy"); its nonutility subsidiary, CSW Development-I, Inc. ("Energy Sub"), each located at 1616 Woodall Rodgers Freeway, Dallas, Texas 75202; and its nonutility subsidiary, a general partnership, ARK/CSW Development Partnership ("Joint Venture"), 23293 South Pointe Drive, suite 100, Laguna Hills, California 92653; three associated entities, Noah I Power Partners, L.P. ("Partnership"), a special purpose limited partnership and subsidiary of Energy Sub, Noah I Power GP, Inc. ("JV Sub"), a corporate subsidiary of Joint Venture, and the Brush Cogeneration Project Partnership ("Project Venture"), a general partnership and subsidiary of the Partnership, each located at 23293 South Pointe Drive, suite 100, Laguna Hills, California 92653; and a proposed entity, Colorado Cogen Operators Limited Liability Company, 303 East Seventeen Avenue, Denver, Colorado 80203 (together, "Applicants"), which will be a subsidiary of Project Venture, have filed a post-effective amendment under sections 6(a), 7, 9(a), 10, 12(b), 13(b) and 13(e) of the Act and rules 43, 45, 50(a) 5, 51, 86, 87, 90, 91 and 95 thereunder to their application-declaration previously filed under 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 43, 45, 50(a) (5) and 51 thereunder.

By order, dated October 3, 1990 (HCAR No. 25162) ("Original Order"), CSW was authorized, among other things, to finance Energy's cogeneration and related activities, through December 31, 1995, in an aggregate amount of up to $75 million, and Energy was authorized to expend $25 million of that amount to form Energy Sub to invest in Joint Venture with ARK Energy, Inc. ("ARK"), a nonassociate corporation. Joint Venture was formed as an equal general partnership, which conducts preliminary studies of, consults with respect to, and agree to construct cogeneration and related projects, except it does not perform consulting services regarding independent power projects.

By subsequent order, dated November 1, 1991 (HCAR No. 25399) ("Order"), CSW, Energy, Energy Sub, and Joint Venture were authorized, among other things, to form Partnership and JV Sub, along with ARK, in order to form and directly and indirectly invest in Project Venture, which will develop a qualifying cogeneration facility, within the meaning of the Public Utility Regulatiory Policies Act of 1978 and 18 CFR 292.602. The facility is known as the Brush Cogeneration Project ("Project"), which will consist of a 68 megawatt gas fired cogeneration facility and an 18 acre thermal host greenhouse. The assets and related contractual rights ("Assets") of the Project, located near Brush, Colorado in Morgan, County, are currently owned by CTI Partner II, LLC ("CTI"), a nonassociated Colorado general partnership. Investments in the Project will be made through Project Venture, a joint venture among Energy Sub, ARK, Joint Venture and CTI. Project Venture will be a Colorado general partnership, which will develop and own the Project.

The Partnership was organized as a Delaware limited partnership, and its sole general partner will be JV Sub, which will own a 1% interest in the Partnership. The remaining Partnership interests will be held by Energy Sub and ARK as limited partners, in respective proportional amounts of 95% and 4%.

The Order authorized the Partnership to make an initial capital contribution to Project Venture in the amount of $6 million ("Equity Contribution"). Further, the Partnership, or any creditworthy direct or indirect parent organization of the partnership, was authorized upon completion of construction of the Project, to contribute up to 10% of the capital cost of the project, but not in excess of $7.4 million, as an additional equity contribution ("Additional Equity Contribution").

The Order also authorized Project Venture to finance the $80 million estimated cost of the Project with the Partnership's $7.4 million Additional Equity Contribution and through borrowings under a construction facility ("Facility") with a third party lender. The Facility included: (1) A two year construction loan of up to $74 million ("Construction Loan"); (2) a conversion arrangement for a long-term loan of up to $66.6 million ("Long-Term Loan") for a term of between approximately 15 and no more than 18 years, following the application of the Additional Equity Contribution to reduce the Construction Loan; (3) a $4 million revolving credit arrangement for a term of between approximately 15 years and no more than 20 years ("Revolving Loan"), to be used for working capital and debt service reserve requirements during construction; and (4) a $2 million letter of credit ("LOC"). Finally, the Order authorized CSW to enter into an equity commitment agreement ("Support Agreement") in an amount not to exceed $13.4 million for the benefit of CTI and the third party lender providing financing for the Project.

The Commission has now been informed that the estimated cost of the Project has been increased from $80 million to an amount that will not exceed $93 million, consisting of an estimated construction cost of $85 million and operating costs of $8 million. Accordingly, the Applicants now propose to modify and increase their existing authority to capitalize and finance Project Venture and request additional authority to acquire an interest in a partnership, which will operate the Project, all as described below.

As in the original authorization, each of the Partnership and CTI will acquire a 50% general partnership interest in Project Venture, under the Partnership Agreement. In partial consideration for its interest in Project Venture, the Partnership proposes to increase its Equity Contribution obligation from $6 million up to no more tha $7 million. Under the Order, the Additional Equity Contribution obligation was capped at 10% of the Project's Construction Loan up to $7.4 million and was to come entirely by the Partnership. The obligation will now equal from 10% to 15% of such costs, depending on the debt/equity capitalization ratio required by the lenders, and be in amounts between $7.1 million and $12.750 million (15% of the Construction Loan) and be

partially shared with CTI according to a formula, below.

In addition to the Equity Contribution, the Partnership will contribute additional equity of $7.1 million plus one-half of the remainder of the Additional Equity Contribution that may be required by the lenders, or up to $2.825 million, for its total share of the Additional Equity Contribution of $9.925 million. CTI also will contribute one-half of the remainder of the equity required by the lenders, or up to $2.825 million. The combined Additional Equity Contribution will not exceed $12.750 million.

The total equity investment by the Partnership in Project Venture, including those of associated companies, will not exceed $16.925 million. The Applicants will restate the Support Agreement to increase the amount of the guaranteed equity commitment from $13.4 million to $16.925 million. This amount constitutes a part of, and is not in addition to, Energy's existing general authority under the Original Order to use $25 million to finance the Joint Venture through capital contributions and loans.

Project Venture proposes to finance the $85 million estimated cost of construction and development of the Project and the projected $8 million of operating costs with the $12.750 million Additional Equity Contribution and through borrowings under the Facility. The Facility will be adjusted, as follows: (1) The Construction Loan commitment will be increased from $74 million to the amount not to exceed $85 million; (2) the Long-Term Loan will be increased from $66.6 million to an amount not exceeding $76.5 million, following the application of $8.5 million of the Additional Equity Contribution to reduce the Construction Loan; (3) the $4 million revolving credit arrangement will be increased to $8 million; and (4) the $2 million LOC will be eliminated.

Finally, the Applicants propose that Project Venture will invest up to $125,000 to acquire up to 50% of the capital stock of Colorado Cogen Operators Limited Liability Company, a Colorado limited liability company ("Operator"), which will operate the Project and an adjacent, nonassociate cogeneration plant in which CTI has an interest. All the issued and outstanding capital stock of the Operator is presently owned by CTI or its affiliates. In this connection, Project Venture proposes to enter into a service agreement ("O&M Agreement") with the Operator for the operation and management of the Project at cost.

National Fuel Gas Company, et al. (70–7943)

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, New York , New York 10112, a registered holding company, and its subsidiary companies, Seneca Resources Corporation ("Seneca"), National Fuel Gas Distribution Corporation ("Distribution"), Empire Exploration, Inc. ("Empire") and National Fuel Gas Supply Corporation ("Supply"), all located at 10 Lafayette Square, Buffalo, New York 14203, have filed a joint application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 12(c) of the Act and rules 45, 46(b), 50 and 50(a)(5) thereunder.

National proposes to issue and sell, through April 30, 1994, in one or more transactions an aggregate of not to exceed 2.5 million authorized but unissued shares of its common stock, no par value ("Additional Common Stock"). At an assumed price of $24.50 per share, National expects to realize a total of approximately $61.25 million from the sale of the Additional Common Stock. National further proposes, through April 30, 1994, to use the proceeds from the sale: (1) To reimburse its treasury in the amount of $3.5 million; (2) to contribute capital in the approximate amount of $57.75 million to one or more of Seneca, Distribution, Empire or Supply; (3) to lend that amount to one or more of Seneca, Empire or Supply and/or; (4) for general corporate purposes.

If capital contributions are made to its subsidiaries, National proposes to make capital contributions not to exceed 100% of the remaining net proceeds each to Seneca, Distribution and Supply, and not to exceed 25% of such proceeds to Empire. If loans are made to its subsidiaries, National proposes to lend not to exceed 100% of the remaining net proceeds each to Seneca and Supply, and not to exceed 25% of such proceeds to Empire.

All loans made by National will be in exchange for unsecured notes. The total amount contributed or loaned by National to its subsidiary companies will not exceed the proceeds received by National from the sale of the Additional Common Stock. Seneca, Distribution, Empire and/or Supply intend to apply such amounts, in one or more of the following ways: (1) To reduce their outstanding short-term borrowings; (2) for their exploration and development or construction programs; or (3) for general corporate purposes.

If National lends the net proceeds from the sale of the Additional Common Stock to Seneca, Empire and/or Supply, the terms of each loan will be determined based upon the following procedures: (1) The maturity of the loans will be determined by National and the particular subsidiary based upon the needs of the subsidiary at the time of the loan, but will not exceed twenty years; and (2) National will solicit the advice of three investment banking firms as to the current interest rate National could obtain from the sale of its debentures or medium-term notes at a like maturity and having whatever additional terms and conditions, such as call rights, as may be agreed upon at the time of the loan. National will compile the quotes and select the lowest interest rate as the rate to be charged for that particular loan, provided that the interest rate selected will be no less favorable than could be obtained by similar issuers issuing a similar security. National proposes to issue the Additional Common Stock under the alternative competitive bidding procedures provided by the Commission in its Statement of Policy Concerning Application of Rule 50 under the Public Utility Holding Company Act of 1935. In the alternative, National requests an exception from the competitive bidding requirements of Rule 50 pursuant to subparagraph (a)(5) thereunder so that it may begin negotiations with respect to the issuance and sale of the Additional Common Stock. It may do so.

Jersey Central Power & Light Company 70–7951

Jersey Central Power & Light Company ("JCP&L"), 300 Madison Avenue, Morristown, New Jersey 07962–1911, a public-utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed an application under Sections 9(a) and 10 of the Act.

By order dated June 14, 1988 (HCAR No. 24664), the Commission, among other things, authorized JCP&L to sell and lease back its 8.37% undivided ownership interest ("Ownership Interest") in the Merrill Creek Reservoir Project located in Harmony Township, New Jersey ("Merrill Creek"). JCP&L's 8.37% Ownership Interest in Merrill Creek represents an entitlement to releases from 4,000 acre feet of reservoir storage capacity. JCP&L's entitlements to Merrill Creek reservoir releases are substantially in excess of its current and projected requirements for the forseeable future.

JCP&L proposes to sublease a portion of its storage capacity in Merrill Creek to Keystone Energy Service Company, L.P. ("Keystone"), an affiliate of U.S. Generating Company, pursuant to a sublease agreement ("Sublease").

Keystone would use such capacity for cogeneration project to be located in Logan Township, New Jersey.

Under the terms of the proposed Sublease, Keystone would lease from JCP&L, on an annual basis, 135 acre feet of such storage capacity ("Committed Capacity"), as well as any additional storage capacity not then utilized by JCP&L, if required by Keystone for make-up water purposes ("Standby Capacity"). JCP&L would, however, be permitted to sell or lease the Standby Capacity to a third party, subject to Keystone's right of first refusal.

The Sublease will have an initial term of 20 years, commencing in 1995, subject to Keystone's right to renew the Sublease for a term and at prices to be negotiated at the time of expiration of the Sublease, provided neither JCP&L nor its affiliates then require the Committed Capacity or Standby Capacity.

The rental payments for the Committed and Standby Capacity have been structured to at least equal, during the term of the Sublease on a present value basis, a pro rata portion of JCP&L's rent payments to the owner-trustee/lessor of Merrill Creek. JCP&L intends to apply the rental payments for the Committed and Standby Capacity to its rental obligations under the lease agreement or for other general corporte purposes.

Semi-annual rental payments for the Committed Capacity would commence on July 31, 1995 at the rate of $59,000, increasing over the terms of Sublease to $154,000 in 2016. To the extent that it utilized the Standby Capacity in any year, Keystone would pay JCP&L additional semi-annual rentals beginning at $59,000 on July 30, 1996 and increasing to $154,000 in 2016. If in any year Keystone utilized in excess of 270 acre feet of storage capacity, the rental payments for the Standby Capacity in that year would be increased.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-12197 Filed 5-22-92; 8:45 am]

BILLING CODE 8010-01-M

File No. 1-5528

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Wedco Technology, Inc., Common Stock, $0.10 Par Value)

May 19, 1992.

Wedco Technology, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, its Board of Directors (the "Board") unanimously approved resolutions on April 27, 1992, to withdraw the Company's Common Stock from listing on the Amex and, instead, list such Common Stock on the National Association of Securities Dealers Automated Quotations/National Market System ("NASDAQ/NMS"). According to the Company, the decision of the Board followed a study of the matter, and was based upon the belief that the listing of the Common Stock on NASDAQ/NMS will be more beneficial to its stockholders than the present listing on the Amex because:

(1) The Company believes that the NASDAQ/NMS system of competing market makers will result in increased visibility and sponsorship for its common stock than is presently the case with the single specialist on the Amex;

(2) The Company believes that the NASDAQ/NMS system will offer the opportunity for the Company to secure its own group of market makers and expand the capital base available for trading in the common stock; and

(3) The Company believes that the firms making a market in the Company's common stock on the NASDAQ/NMS system will also be inclined to issue research reports concerning the Company, thereby providing institutional research and advisory reports not currently available about the Company.

Any interested person may, on or before June 10, 1992, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-12134 Filed 5-22-92; 8:45 am]

BILLING CODE 8010-01-M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Southdowns at Roxborough, Douglas County, CO

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Southdowns at Roxborough, located south of Denver, Douglas County, Colorado, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until August 24, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. E. Ted Hine, Resolution Trust Corporation, Costa Mesa Field Office, 4000 McArthur Boulevard, Second Floor, East Tower, Newport Beach, CA 92660-2516, (714) 263-4648, Fax (714) 852-7624.

SUPPLEMENTARY INFORMATION: The Southdowns at Roxborough property is located in the southeast quadrant of Rampart Range Road and Roxborough Park Road at the entrance to Roxborough State Park, approximately 26 miles southwest of the City of Denver. The property has recreational value and consists of approximately 92 acres of undeveloped land. The site is contiguous with the Pike National Forest and Roxborough State Park. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property consists of two tracts of land and 43 individual residential lots totaling approximately 92 acres. The two tracts of land are known as the Forty Acre Parcel and the Country Club Parcel. The site is currently undeveloped pasture and farmland which is contiguous with the Pike National Forest and Roxborough State Park.

Property size: Approximately 92 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before August 24, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by August 24, 1992 to Mr. E. Ted Hine at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

RE: Southdowns at Roxborough

Federal Register Publication Date: _____

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: May 20, 1992.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 92–12234 Filed 5–22–92; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; Waterford Landing, Dallas County, TX

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Waterford Landing, located in the City of Rowlett, Dallas County, Texas, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until August 24, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Steven Reid, Resolution Trust Corporation, Dallas Field Office, 3500 Maple Avenue, Dallas, TX 75219–3935, (214) 443–2300, Fax (214) 443–4825.

SUPPLEMENTARY INFORMATION: The property is located in the southeast quadrant of Main Street and Kirby Road at Lake Ray Hubbard in Rowlett, Dallas County, Texas. Lake Ray Hubbard is located to the east of the site. Approximately 1,297 feet of the property's boundary is adjacent to the lake. This strip of lake frontage is leased by the City of Rowlett from the City of Dallas for park and open space use. The property has recreational value, primarily for boating and fishing. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3).

Characteristics of the property include: The property consists of approximately 179 acres of undeveloped land. The topography is gently rolling from northwest to southeast, toward the lake. A small creek crosses the southwestern portion of the site and flows into Lake Ray Hubbard.

Property size: Approximately 179 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before August 24, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3"Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by August 24, 1992 to Mr. Steven Reid at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

RE: Waterford Landing

Federal Register Publication Date: May 26, 1992

1. Entity name.

2. Declaration of eligibility to submit notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: May 20, 1992.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 92–12233 Filed 5–22–92; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Emergency Order No. 6; Notice No. 2]

Owners of Railroad Tank Cars; Railroads Modification of Emergency Order Requiring Inspection and Repair of Dual Diameter Tank Cars

The Federal Railroad Administration (FRA) has determined that Emergency Order No. 16, Notice No. 1, (57 FR 11900, April 7, 1992) should be modified. This notice summarizes the status of the inspection and repair work performed to date; modifies the number of cars to be inspected in the initial 60 days since the order was issued; extends the time for completing inspections of the cars included in the sample plans; modifies the reporting requirement for inspected cars; clarifies the identity of the "owner" of a tank car; publishes FRA's approval of an alternative inspection protocol using ultra-sound technology; and explains condemning imperfections.

Authority

Authority to enforce the Federal railroad safety laws, including laws pertaining to the transportation of hazardous materials by railroad, has been delegated by the Secretary of Transportation to the Federal Railroad Administrator. 49 CFR 1.49. Railroads, shippers of hazardous materials, and owners of tank cars are subject to FRA's safety jurisdiction under the Federal Railroad Safety Act of 1970, 45 U.S.C. 421, 438, and the Hazardous Materials Transportation Act, as amended, 49 app. U.S.C. 1804. FRA is authorized to issue emergency orders where an unsafe condition or practice creates "an emergency situation involving a hazard of death or injury to persons." 45 U.S.C. 432(a). These orders may immediately impose "such restrictions or prohibitions as may be necessary to bring about the abatement of such emergency situation." *Ibid.*

Background

On April 2, 1992, FRA issued Emergency Order No. 16, effective 12:01

a.m. April 4, 1992 (57 FR 11900, April 7, 1992), requiring owners of dual-diameter tank cars to develop a sampling plan for inspecting such cars with a 99 percent confidence level that no more than one percent of the dual-diameter cars of any given design type would contain a structural imperfection in the critical transition welds. Any defects discovered were to be repaired before returning the car to service and any discovery of a weld defect would subject all cars built to that design to an inspection requirement.

Emergency Order No. 16 prohibited the loading or offering into transportation of any dual-diameter tank car until its owner had submitted a sampling plan; once the plan had been submitted, the order further required an inspection of cars that were part of the sample before loading and not later than 60 days after the effective date of the order. The 60-day period ends June 3, 1992.

The Inspection Program

The inspection program is now about half complete with more than 600 cars inspected, or nearly 30 percent of the more than 2,100 cars scheduled as part of their owners' plan. Even with the pace of inspections picking up, due at least in part to FRA's approval of ultra-sound as an alternative to radiography, it is clear that owners will not inspect all targeted cars before June 3, 1992. FRA believes that the inspection of dual-diameter tank cars must continue at an accelerated pace until the confidence level called for in Notice No. 1 is reached.

As of the last count, 48 out of 59 cars inspected, built to the same design as the car that failed at Dragon, Mississippi, have been found to be defective. At the same time, inspections of limited samples of eight other design types have not yet uncovered any single car structural defects, let alone systemic flaws or design deficiencies. What continues to trouble FRA (and the tank car owners, users, and carriers) is the lack of a clear indication of why the "Dragon" flaws occurred in that group of cars.

This agency is aware that tank car inspection points are unable to examine cars as fast as they are now arriving and that significant numbers of cars are merely waiting in an inspection line. Inspections under Emergency Order No. 16 will eventually reach some 2,100 (out of approximately 5,400) dual diameter tank cars, about twice the minimum number FRA estimated when the Emergency Order was issued. Based on this fact, and based on the lack of systemic flaws in other than "Dragon" design cars, FRA has decided to reduce the sample inspection target for the first sixty days to a minimum of 20 percent of the cars of any given design type and to require the inspection of the remainder of the cars *on each owner's sample plan* within the 90-day period following June 3, i.e., by midnight September 1, 1992. If 20 percent or more of the cars of any design type have been inspected by June 3, 1992, owners of cars of that type can release those cars into transportation so long as they receive an inspection within the 90-day extension. However, *none* of the relief just described is available unless the 20 percent inspection target is met by June 3. FRA does not consider a car inspected until the owner furnishes a report of its inspection to the Chief, Hazardous Materials Division; owners have until June 4 to report cars inspected June 3. Car owners, or pool participants where applicable, failing to complete inspections on at least 20 percent of the population of each design type may not release any cars back into service, and each non-inspected car of these design types found in transportation after June 3 will be subject to penalty, with each day of use a separate violation. By the same standard, unless all of the sample cars of a design type are inspected by September 1, 1992, each non-inspected car of that design type operating after midnight on that day is subject to a penalty for each day of operation.

Reporting Inspections

Most car owners have been diligent in reporting the inspections of their cars but FRA is aware that there may be instances of a failure to make daily inspection reports as required by this Emergency Order. Paragraph 5 of the Order requires daily reporting of cars inspected the previous day, and FRA will treat a failure to comply with the utmost seriousness. However, FRA knows that some inspections show questionable results and need a second inspection to achieve sustainable conclusions; the reporting order applies only to completed inspections.

FRA is modifying the reporting requirement slightly: In order to monitor the activity in many shops and in order to maintain a picture of the activity at facilities scattered around the nation, FRA is adding a requirement to include the place and date of the inspection along with the other data reported.

Tank car "Owners"

FRA entered this emergency order against "owners" of tank cars. An obvious, but by no means exclusive, concept of an "owner" is available in the freight car safety standards where, at 49 CFR 215.301, appears the requirement that the railroad or private car owner reporting mark must be displayed on the car. Car reporting marks, an alpha/numeric identification such as ABC 1234 that is unique to each piece of railroad rolling stock, are listed in *The Official Railway Equipment Register*, Tariff ICC RER 6400-Series, published by International Thomson Transport Press, New York, New York.

Another concept of "owner" can be drawn from the Hazardous Materials Regulations: Certain hazardous materials, among them compressed gases, must be unloaded on private track. (See, for example, 49 CFR 174.204(a).) The definition of "private track" in 49 CFR 171.8 includes "track * * * which is devoted to that purpose of its user either by lease or written agreement, in which case the lease or written agreement is considered equivalent to ownership."

Tank cars commonly are operated pursuant to master lease agreements under which the lessee uses the car in exchange for a monthly rental payment. The holder of such an agreement, the lessee, has the right to control the service of the car, that is to designate its next load and destination. The car lease, like a track lease, allows an asset to be devoted to the purpose of its user. A tank car master lease gives the lessee more control than the owner of the reporting mark over the day to day operation of a tank car; the lease also means that the title holding owner (who may be an investment company with an interest in transportation only to the extent it produces revenue) may not be able to prevent the movement of a tank car contrary to this Emergency Order. FRA believes that the intent of Emergency Order No. 16 will be realized most clearly and most fairly, if all parties understand that, when FRA refers to a tank car "owner," that term includes whatever interest controls or influences relevant activity involving the tank car. This means that the title holder, the reporting mark owner, and the lessee/shipper are all included as necessary to effect safety. Further, this means that FRA will continue to look to the reporting mark owner for submitting sample plans and accomplishing the inspections but that FRA will not hesitate to seek penalty damages from a lessee/shipper who offers an improper car into transportation.

Alternative, Equivalent Inspection Protocols

Paragraph 8 of Emergency Order No. 16 required radiographic examination of the critical A1, A2, B1, and B2 welds

(See the drawing at 57 FR 11903). The Order also allowed owners who could not comply with radiography to use alternative, equivalent inspection protocols after submission to, and approval by, the Chief, Hazardous Materials Division, FRA.

In a letter dated April 6, 1992, General American Transportation Corporation submitted a request to use ultrasonic examination to inspect welds. That request included procedures that complied with generally accepted principles for ultrasonic examination. Three subsequent letters from ACF Industries, Trident NGL, Inc., and Union Tank Car Company also requested the use of ultrasonic examination as an alternative to the radiographic examinations covered by the order. After reviewing the procedures, the Chief, Hazardous Materials Division, granted approval, giving permission to use ultrasonic examination techniques as an alternative to radiography.

Imperfections

Paragraph 3 of Emergency Order No. 16, as an example, cites the definition of "imperfection" from the 1990 Association of American Railroads Manual of Standards and Recommended Practices, Section C—Part III, Specifications for Tank Cars, Appendix W. This portion of the Tank Car Manual lists imperfections of several types, including slag inclusions, porosity, cracks, incomplete fusions or incomplete penetrations. Some of these imperfections, like slag inclusions or porosity, tend not to grow over time, while some, like stress cracks, are almost certain to increase with the accumulation of service life. FRA's primary interest in adopting the appendix W standard for imperfections is to catch all those that would be likely to pose a growing threat to tank integrity, and therefore to safety, over time. The interpretation of the results of inspections of over 600 cars shows the occasional existence of some minor latent weld imperfections in the areas targeted for inspection, including weld inclusions (slag), porosity, and incomplete weld fusion. Although these minor imperfections do exist, they have no effect on strength nor have they shown a propensity to cause crack growth throughout the service life of these cars. FRA is therefore modifying paragraph 6 of the Order to require inspection of all cars built to a design type only when a sample car is found with a structural defect that may initiate crack growth.

Finding and Order

I find that the emergency situation involving a hazard of death or injury to persons that led to the issuance of Emergency Order No. 16, has not been completely abated and, accordingly, pursuant to the authority of section 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 432), delegated to me by the Secretary of Transportation (49 CFR 1.49), it is ordered that Emergency Order No. 16, Notice No. 1 be amended as follows:

1. Owners of dual-diameter tank cars who have inspected a minimum of 20 percent of the cars of any given design type by June 3, 1992, may release for transportation service non-inspected cars of that design type now listed as part of a sample plan, but must complete the original sample plan inspections by September 1, 1992.

2. No non-inspected car shown on a sample plan may be loaded or offered for transportation unless 20 percent of the cars of that design type have been inspected by June 3, 1992. Each car loaded or offered in violation of this order shall constitute a separate violation.

3. No non-inspected car of a design type shall be loaded or offered for transportation after September 1, 1992 unless all cars on the sample plan for that design type have been inspected. Each car loaded or offered in violation of this order shall constitute a separate violation.

4. Paragraph 6 of the Emergency Order is amended to read as follows:

6. If any sample car of a particular design type is found with an imperfection as defined in appendix W of the Tank Car Manual, and the imperfection is a structural defect that may initiate crack growth, the owner shall immediately notify FRA and any other owners of cars built to that design type (to the extent the owner knows of such other owners).

Thereafter, owners of cars of that design type must ensure that all such cars are inspected in accordance with paragraph 8 of this Order or with the alternative ultrasound techniques authorized by Notice No. 2 before permitting any further loading of such cars.

5. Daily reports of inspections shall include the date and place of inspection, that is, the name of the facility and the city and state of its location, in addition to the items required by paragraph 5 of Emergency Order No. 16, Notice No. 1.

6. Owners who wish to avail themselves of ultrasound examination techniques for the inspection of tank cars subject to this Emergency Order may use the procedures specified below as an alternative to the radiography procedures set forth in paragraph 8 of Notice No. 1:

A. Equipment

1. Ultrasonic Flaw Detector

Use an ultrasonic examination device that can detect flaws, such as cracks and other imperfections as defined in Appendix W of the Tank Car Manual, in the circumferential weld areas inside of the tank. Use of the device shall satisfy the manufacturer's instructions for recalibration (recall) prior to use, but in no case shall the device exceed six months of operation. The device shall consist of:

a. Transducer. Use a 60° or 70° angle, longitudinal and shear wave transducer, at least ½ inch in diameter, operating at 2.25 Mhz.

b. Couplant. Use a cellulose base water soluble liquid couplant, or equivalent, that is not detrimental to the tank.

c. Calibration block. Use a basic ASME calibration block, "DSC" type, or "IIW" miniature angle block, or other acceptable equivalent.

2. Materials for Liquid Penetrant or Magnetic Particle Examination

Use materials as specified by the manufacturer.

3. Scale Removing Equipment.

Power wire brush, wire brush, scraper, etc.

B. Personnel

The "Certification of Competency of Nondestructive Examination Personnel" of Appendix W of the Tank Car Manual apply.

C. Examination Areas

Ultrasonically examine the A1, A2, B1, and B2 circumferential weld areas two inches on each side of each weld and at least twenty-four inches on each side of the tank car longitudinal center line.

D. Procedure

1. Clean the interior of the tank.

2. Scrape or wire-brush the areas for examination inside of the tank, as required, to ensure that the surface is free from scale and foreign material that may interfere with sound transmission or smooth movement of the transducer.

3. Calibrate the test equipment prior to use.

4. Measure the thickness of the plate using a straight beam transducer or an ultrasonic thickness gauge.

5. Examine the areas outlined in paragraph III above, by scanning forward and backward at 6–10 dB above the Primary Reference Level. Examination procedures shall comply with the ASME Boiler and Pressure

Vessel Code, section V, article 5 (current edition) or by a procedure developed and approved by qualified Level III personnel.

6. Use liquid penetrant or magnetic particle examination methods as defined in Appendix W of the Tank Car Manual to find mechanical imperfections in the examination areas.

7. When finding a defect, use suitable measuring techniques to measure their dimensions and depth.

E. Acceptance Criteria

The non-destructive examinations and acceptance standards of Appendix W of the Tank Car Manual apply.

F. Repaired Areas and Rule 88

1. For repaired areas, the requirements of Appendix R of the Tank Car Manual apply.

2. The requirements of Rule 88, "Mechanical Requirements for Acceptance," of the 1992 AAR Field Manual of Interchange Rules apply.

Relief

Tank car owners may obtain relief from this Order by informing the Federal Railroad Administration, as directed, of the identity of the representative sample and by performing the inspections and making the reports as required.

Penalties

Each violation of this Emergency Order shall subject the respondent committing such violation to a civil penalty of up to $20,000. 45 U.S.C. 432, 438. FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 45 U.S.C. 439.

Notice to Affected Persons

Notice of this Order will be provided by publishing it on an emergency basis in the **Federal Register**. Copies of this Emergency Order were sent by mail or facsimile prior to publication to the Association of American Railroads, the American Short Line Railroad Association, the Regional Railroads of America, the Railway Progress Institute, all members of the AAR Tank Car Committee, and to owners of dual-diameter tank cars as follows: ACF Industries, Inc., Aeropres Corp., Bay Cities Gas, Canadian Enterprise Gas Products Ltd., CGTX, Inc., Chevron U.S.A. Products Company, Coastal Chem, Inc., CONOCO Inc., Continental Tank Car Corporation, General American Transportation Corporation, GLNX Corporation, Home Oil Company Limited, Mallard Transportation Company, Mobile Oil Corporation, Petrosol International, Inc., Phillips 66 Company, PLM Transportation Equipment Corp., SAZ Transportation Corporation, Suburban Propane/Petrolane, Sun Refining and Marketing Company, Texas Petrochemicals Corporation, Trident NGL, Inc., Union Tank Car Company, United States Rail Services, Inc., Vista Chemical Company, Willard Grain & Feed Inc., and ZIP Transportation Company, Inc.

Review

Opportunity for formal review of this Emergency Order will be provided in accordance with section 203(b) of the Federal Railroad Safety Act of 1970, 45 U.S.C. 432(b), and section 554 of Title 5 of the United States Code. Administrative procedures governing such review are found in 49 CFR part 211 (see § 211.47, .71–.75).

Effective Date

This amendment to Emergency Order No. 16, Notice No. 1, shall be effective immediately upon issuance.

Issued in Washington, DC on May 15, 1992.

Gilbert E. Carmichael,

Administrator.

[FR Doc. 92–12119 Filed 5–22–92; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

Rulemaking, Research and Enforcement; Meeting

AGENCY: National Highway Traffic Safety Administration; DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research and enforcement programs.

DATES: The Agency's regular, quarterly public meeting relating to the agency's rulemaking, research, and enforcement programs will be held on June 24, 1992, beginning at 10:15 a.m. and ending at approximately 1 p.m. Questions relating to the agency's rulemaking, research, and enforcement programs, must be submitted in writing by June 15, 1992, to the address shown below. If sufficient time is available, questions received after the June 15 date may be answered at the meeting. The individual, group or company submitting a question(s) does not have to be present for the questions(s) to be answered. A consolidated list of the questions submitted by June 15, 1992, and the issues to be discussed will be mailed to interested personnel by June 18, 1992, and will be available at the meeting.

ADDRESSES: Questions for the June 24 meeting relating to the agency's rulemaking, research, and enforcement programs should be submitted to Barry Felrice, Associate Administrator for Rulemaking, National Highway Traffic Safety Administration, room 5401, 400 Seventh Street SW., Washington, DC 20590. The meeting will be held at the Ramada Inn, 8270 Wickham Road, Romulus, Michigan 48174 (by the Detroit Metropolitan Airport.)

SUPPLEMENTARY INFORMATION: NHTSA will hold its regular, quarterly meeting to answer questions from the public and the regulated industries regarding the agency's rulemaking, research and enforcement programs, on June 24, 1992. The meeting will be held at the Ramada Inn, 8270 Wickham Road, Romulus, Michigan. The purpose of the meeting is to focus on those phases of NHTSA activities which are technical, interpretative or procedural in nature. A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, DC 20590. The Technical Reference Section is open to the public from 9:30 a.m. to 4 p.m.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92–12143 Filed 5–22–92; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: May 18, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0139.
Form Number: None.
Type of Review: Reinstatement.
Title: Withdrawal for Consumption or Withdrawal for Exportation of Articles Manufactured In-Bond.
Description: Warehouse proprietors must submit a statement to Customs for each transaction or period of manufacture as proof of manufacture or exportation.
Respondents: Businesses or other for-profit.
Estimated Number of Responses: 12.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 90 hours.
Clearance Officer: Ralph Meyer (202) 566–9182, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 92–12125 Filed 5–22–92; 8:45 am]
BILLING CODE 4820–02–M

Public Information Collection Requirements Submitted to OMB for Review

Date: May 18, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0115.
Form Number: IRS Form 1099–MISC.
Type of Review: Extension.
Title: Miscellaneous Income.
Description: Form 1099–MISC is used by payers to report payments of $600 or more of rents, prizes and awards, medical and health care payments, nonemployee compensation, and crop insurance proceeds, $10 or more of royalties, any amount of fishing boat proceeds, certain substitute payments, golden parachute payments, and an indication of direct sales of $5,000 or more.
Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations.
Estimated Number of Responses: 4,301,217.
Estimated Burden Hours Per Respondent: 14 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 13,661,934 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 92–12126 Filed 5–22–92; 8:45 am]
BILLING CODE 4830–01–M

Internal Revenue Service

Trade Show; IRS Electronic Tax Filing National Conference and Exhibition; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Nation of IRS's electronic tax filing national conferences and exhibitions for 1992; correction.

SUMMARY: In notice document 92–8340 beginning on page 12549 in the issue of Friday April 10, 1992, make the following correction:

On page 12550 in the first column, fourth line from the top of the column, the area code was previously listed as (310). This should be changed to read (301).

DATED: April 23, 1992.

FOR FURTHER INFORMATION CONTACT: Rodney K. West, (301) 773–1881, RP Exhibit Service, Inc., 1761 Olive Street, Capitol Heights, MD 20743, FAX (301) 773–8742.

Dale D. Goode,
Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).
[FR Doc. 92–12109 Filed 5–22–92; 8:45 am]
BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 101
Tuesday, May 26, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, Wednesday, May 27, 1992, 10:00 a.m.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS:

Open to the Public

MATTERS TO BE CONSIDERED:

Infant Cushions: Final Rule

The staff will brief the Commission on a final rule addressing the risk of injury and death presented by infant cushions.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504–0800.

Dated: May 21, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–12342 Filed 5–21–92; 3:36 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, Thursday, May 28, 1992, 10:00 a.m.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS:

Closed to the Public

MATTERS TO BE CONSIDERED:

Compliance Status report

The staff will brief the Commission on the status of various compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504–0800.

Dated: May 21, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–12343 Filed 5–21–92; 3:36 pm]

BILLING CODE 6355–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:32 a.m. on Wednesday, May 20, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Stephen R. Steinbrink (Acting Comptroller of the Currency), concurred in by Vice Chairman Andrew C. Hove, Jr., Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(6), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: May 20, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92–12263 Filed 5–21–92; 9:46 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:15 a.m. on Wednesday, May 20, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in open session to consider the following matters:

Memorandum and resolution re. Final amendments to Part 337 of the Corporation's rules and regulations, entitled "Unsafe and Unsound Banking Practices," which are designed to implement changes made by the Federal Deposit Insurance Corporation Improvement Act in the regulatory scheme for brokered deposits.

Memorandum and resolution re: Proposed withdrawal of an existing policy statement entitled "Brokered Funds."

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Vice Chairman Andrew C. Hove, Jr., Director Stephen R. Steinbrink (Acting Comptroller of the Currency), and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; and that no notice of the meeting earlier than May 14, 1992, was practicable.

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: May 20, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92–12264 Filed 5–21–92; 9:46 am]

BILLING CODE 6714–01–M

INTERSTATE COMMERCE COMMISSION

Commission Conference

TIME AND DATE: 10 a.m., Tuesday, June 2, 1992.

PLACE: Hearing Room A, Interstate Commerce Commission 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Ex Parte No. MC–200, *National Bus Traffic Association, Inc.—Petition for Rulemaking—Special Transportation Arrangements for Passengers with Disabilities.*

Ex Parte No. MC–203, *Petition to Amend 49 CFR 1057—Lease and Interchange of Vehicles.*

CONTACT PERSONS FOR MORE INFORMATION: Alvin H. Brown or A. Dennis Watson, Office of External Affairs, Telephone: (202) 927–5350, TDD: (202) 927–5721.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–12308 Filed 5–21–92; 1:54 pm]

BILLING CODE 7035–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 26, 1992.

A closed meeting will be held on Tuesday, May 26, 1992, at 2:30 p.m. An open meeting will be held on Thursday, May 28, 1992, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one of more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8) (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meetings in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 26, 1992, at 2:30 p.m., will be:

Settlement of administrative proceedings of an enforcement nature.

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Settlement of injunctive actions.

The subject matter of the open meeting scheduled for Thursday, May 28, 1992, at 10:00 a.m., will be:

1. Consideration of whether to adopt amendments to rule 52, and whether to issue for comment further proposed amendments to the same rule and to rule 45(b)(4), under the Public Utility Holding Company Act of 1935. Rule 52 exempts certain financings by public-utility subsidiaries of registered holding companies, provided that eight conditions are met. The amendment to rule 52 would eliminate the six nonstatutory conditions and would extend the exemption to all mortgage bonds rather than first mortgage bonds alone. The proposed amendment to rule 52 would exempt additional public-utility financings, as well as certtain nonutility financings, subject to certain conditions. The proposed amendment to rule 45(b)(4) would remove a current dollar limitation on capital contributions and open account advances, without interest, by a holding company to its subsidiary company. For further information, please contact Brian Spires at (202) 272–7688.

2. Consideration of whether to propose for public coment rule 3a-7 under the Investment Company Act of 1940 ("Act"). Rule 3a-7 would conditionally exclude certain issuers that pool income-producing assets and issue securities backed by those assets from the definition of investment company under the Act. Additionally, consideration will be given to whether to request public comment on whether section 3(c)(5) of the Act should be amended in light of the proposal. For further information, please contact Rochelle Kauffman at (202) 722–2038.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Walter Stahr at (202) 272–2000.

May 21, 1992.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–12352 Filed 5–21–92; 3:50 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 57, No. 101
Tuesday, May 26, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheic Administration

50 CFR Part 663

[Docket No. 910802-2036]

RIN 0648-AE09

Pacific Coast Groundfish Fishery

Correction

In rule document 92-10867 beginning on page 20058 in the issue of Monday, May 11, 1992, make the following corrections:

§ 663.7 [Corrected]

1. On page 20060, in the first column, in § 663.7(p), in the second line from the bottom, "110""should read "10"".

Appendix A to Part 663 [Corrected]

2. On the same page, in the third column, in amendatory instruction 4, in the third line, "and" should read "add".

BILLING CODE 1505-01-D

FEDERAL RESERVE SYSTEM

12 CFR Part 230

[Regulation DD; Docket No. R-0753]

Truth in Savings

Correction

In proposed rule document 92-8013 beginning on page 12735, in the issue of Monday, April 13, 1992, make the following corrections:

1. On page 12738, in the second column, in the sixth line, "single" should read "simple".

2. On page 12742, in the second column, in the second paragraph, in the second line, "Paragraph (b)(4)(ii)" should read "Paragraph (b)(4)(i)".

3. On the same page, in the third column, in the fifth line from bottom, after "§ 230.8(a)" insert ". For example,".

4. On page 12743, in the 1st full paragraph, in the 2nd and the 16th lines, "Section 226(e)" should read "Section 266(e)", both times it appears.

5. On page 12745, in the second column, in the sixth line, "new" should read "net".

6. On the same page, in the third column, in the first line, "the" should read "that".

7. On page 12747, in the 3rd column, in the 10th line, "that" should read "the".

8. On page 12749, in the second column, in the last paragraph, in the third line, "the" should read "be".

9. On page 12751, in the 2nd column, in the 16th line, "of" should read "on".

10. On the same page, in the same column, in the third full paragraph, in the seventh line, "should" should read "would".

11. On page 12752:

a. In the 1st column, in the 3rd paragraph, in the 13th line, after "on the" insert "lowest balance in the tier and the high end is figured on the ".

b. In the same column, in the heading, "*Part III.*" should read "*Part II.*".

c. In the 2d column, in the 11th line, in the 2d full paragraph, in the 6th line, and in the 5th full paragraph, in the last line, "of" should read "or", each time it appears.

d. In the third column, in the fourth line, "only" was mispelled.

e. In the same column, in the third full paragraph, in the second line, "found" was mispelled.

§ 230.2 [Corrected]

12. On page 12754, in the first column, in § 230.2(e), in the sixth line, "of" should read "or".

§ 230.4 [Corrected]

13. On page 12755, in the second column, in § 230.4(c), in the first line, "*of*" should read "*to*".

Appendix A [Corrected]

14. On page 12757, under "**Tiering Method A,**" in the third paragraph, in the seventh line, after "fixed" insert "simple".

15. On the same page, in the third column, above "**Appendix B,**" insert "APY = 6.58%".

Appendix B [Corrected]

16. On page 12758, in the second column, in paragraph (e)(ii), in the sixth line, "of" should read "for".

17. On the same page, in the third column, in the heading, "B-2", "Changer" should read "Change".

18. On page 12759, in the first column, the first sentence should be removed.

19. On the same page, in the same column, under the heading, "**Bank XYZ,**" in the fourth line, after "for" insert "not".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150-AE20

Revision of Fee Schedules; 100% Fee Recovery, FY 1992

Correction

In proposed rule document 92-9722 beginning on page 18095, in the issue of Wednesday, April 29, 1992, make the following corrections:

1. On page 18095, in the second column, under **BACKGROUND**, in the second paragraph, in the fifth line from the end of the paragraph, after the word "certificate" insert a comma.

2. On page 18096, in the 2d column, in the 4th full paragraph, in the 2d line, "publications" should read "publication", in the same paragraph, in the 13th line, after "NRC" insert "is", and in the 16th line, "request" should read "requests".

3. On the same page, in the third column, in the second full paragraph, in the fourth line from the end of the paragraph "to" should read "of".

4. On page 18097, in the second column, in the first full paragraph, in the fourth line from the end of the paragraph, "acknowledge" should read "acknowledged."

§ 170.31 [Corrected]

5. On page 18105, in the third column, in § 170.31, in the fourth line, insert "and" before "export".

6. On page 18107, in the table, in the first column, in Category D., in the first line "3273" should read "32.73", and in the sixth line "Inspections:" was misspelled. In Category F., in the third line, "Newlicense" should read " New license".

7. On page 18108, in the table, in the first column, in Category N., in the first

line, after the word "calibration" insert "and/or". In the same column, in Category O., in the first line "individual" should read "industrial".

8. On page 18110, at the bottom of the page, insert footnote designation "1" before "Types of fees."

§ 171.15 [Corrected]

9. On page 18112, in § 171.15, in the table, in the third column, under "Base fee", in the first line "$2.005" should read "$2,981". In the second column, in § 171.16(c) the table heading "not-forprofit" should read "not-for-profit".

§ 171.16 [Corrected]

10. On the page 18112, in the third column, in § 171.16, at the end of the table and before "(4)" add five stars.

11. On page 18113, in the second column, in Category 4. A., at the end of the first line, remove the symbol before 86,900 and insert footnote designation "5."

12. On page 18115, in the first column, in § 171.16(e)(2), in the sixth line "17d" should read "17e".

Appendix A [Corrected]

13. On page 18116, in the third column, in the last line, insert a comma after "radiography".

14. On page 18117, in the first column, in the first full paragraph, in the fourth line from the end of the paragraph, "Not" should read "Note". In the same column, in the third full paragraph, in the eighth line, "readioactive" should read "radioactive".

15. On the same page, in the third column, in the third full paragraph, in the fifth line, "fo rthe" should read "for the".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 91-AWP-16]

Proposed Alteration of VOR Federal Airway V-186; CA

Correction

In proposed rule document 92-10908 beginning on page 20219 in the issue of Tuesday, May 12, 1992, in the second column, under **DATES**, "June 14, 1992" should read "June 15, 1992".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Hall County, NE

Correction

In notice document 92-9757 appearing on page 18202 in the issue of Wednesday, April 29, 1992, make the following corrections:

1. In the second column, in the subject heading, "Hall County, NV" should read "Hall County, NE".

2. In the **SUMMARY**, in the fifth line, "form" should read "from".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 92-49]

Tuna Fish; Tariff-Rate Quota

Correction

In notice document 92-11516 appearing on page 20862 in the issue of Friday, May 15, 1992, make the following correction:

On page 20862, in the second column, under the heading **FOR FURTHER INFORMATION CONTACT:**, in the sixth line, "not" should read "now".

BILLING CODE 1505-01-D

federal register

Tuesday
May 26, 1992

Part II

Environmental Protection Agency

40 CFR Part 268

Hazardous Waste Management System: Land Disposal Restrictions; DOE Mixed Wastes Extension Application

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[SWH-FRL-4133-2]

Hazardous Waste Management System: Land Disposal Restrictions (LDR); DOE Mixed Wastes Extension Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed decision on request for an extension of the LDR effective date for certain mixed wastes.

SUMMARY: The U.S. Department of Energy (DOE) has applied for a one-year case-by-case extension, under 40 CFR 268.5, of the May 8, 1992, effective date of the Land Disposal Restrictions (LDR) applicable to Third Third mixed radioactive/hazardous wastes generated/stored at 31 of its facilities. EPA is proposing to find that, for the mixed wastes addressed in the application, that DOE has made all but one of the demonstrations required for such an extension. EPA is considering, and seeking comment at this time on, approaches through which DOE might be able to address the remaining demonstration, that of a contractual commitment to construct or otherwise provide treatment capability.

DOE has requested the case-by-case (CBC) extension due to a shortage of capacity for treatment of radioactive mixed wastes.

All the mixed wastes for which DOE is currently requesting an LDR effective date extension are Third Third mixed wastes. (Third Third mixed wastes are among the final third of hazardous wastes restricted according to the schedule specified in Section 3004(g) of the Resource Conservation and Recovery Act as amended by the Hazardous and Solid Waste Amendments of 1984.) The DOE application does not include solvents, dioxins, and California List wastes for which earlier treatment standards were set (51 FR 40572, 52 FR 25760). Treatment standards for Third Third mixed wastes were specified in EPA's June 1, 1990, Third Third LDR rule (55 FR 22520). Third Third mixed wastes are currently the subject of a two-year LDR national capacity variance granted by EPA (55 FR 22532). This variance expires, and the LDR treatment standards become effective for mixed wastes on May 8, 1992.

In its application, DOE stated that it would request a second extension. Although this proposed decision is for one year, the review by EPA has considered the impact of granting a second extension.

DATES: Comments on this Notice must be submitted on or before July 27, 1992.

ADDRESSES: Any person wishing to comment on this proposal must send an original and two copies of the comment to the EPA RCRA Docket (OS-305), U.S. Environmental Protection Agency, 401 M Street, SW.., Washington, DC 20460. Place the Docket Number F-92-ECPP-FFFFF on all copies of the comments. Materials supporting or otherwise relating to the proposal are contained in the EPA RCRA Docket which is located in room 2427, 401 M Street, SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays. An appointment must be made to review docket materials by calling (202) 475-9327. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline, Office of Solid Waste (OS-300), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone (800) 424-9346 toll-free or (202) 382-3000 locally. For information on specific aspects of this Notice, contact William J. Kline, Office of Solid Waste, Capacity Programs Branch (OS-321W), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone (703) 308-8440.

SUPPLEMENTARY INFORMATION:

Outline

2. Argonne National Laboratory—West (ANL–W)
3. Bettis Atomic Power Laboratory (BAPL)
4. Brookhaven National Laboratory (BNL)
5. Colonie Interim Storage Facility (CISS)
6. Energy Technology and Transfer Center (ETEC)
7. Feed Materials Production Center (FMPC)
8. FERMI National Accelerator Laboratory (FNAL)
9. Hanford Site (Hanford)
10. Idaho National Engineering Laboratory (INEL)
11. Inhalation Technology Research Institute (ITRI)
12. K–25 Plant (K–25)
13. Kansas City Plant (KCP)
14. Knolls Atomic Power Laboratory—Kesselring Site (KAPL–KS)
15. Knolls Atomic Power Laboratory (KAPL)
16. Lawrence Berkeley Laboratory (LBL)
17. Lawrence Livermore National Laboratory (LLNL)
18. Los Alamos National Laboratory (LANL)
19. Mound Plant (Mound)
20. Naval Reactor Facility (NRF)
21. Oak Ridge National Laboratory (ORNL)
22. Paducah Gaseous Diffusion Plant (PGDP)
23. Pantex Plant (Pantex)
24. Portsmouth Gaseous Diffusion Plant (PORTS)
25. Rocky Flats Plant (RFP)
26. Sandia National Laboratories—Albuquerque (SNLA)
27. Sandia National Laboratories—Livermore (SNLL)
28. Savannah River Site (SRS)
29. Weldon Spring Remedial Action Project (WELD)
30. West Valley Demonstration Project (WVDP)
31. Y–12 Plant (Y–12)

I. Background

A. Congressional Mandate

On November 8, 1984, Congress enacted the Hazardous and Solid Waste Amendments (HSWA) which amended the Resource Conservation and Recovery Act (RCRA), imposing additional responsibilities on persons managing hazardous wastes. Among other things, HSWA required EPA to develop regulations that would require treatment of hazardous wastes prior to disposal and put restrictions on the land disposal of untreated hazardous wastes. In particular, sections 3004 (d) through (g) of RCRA, a amended, prohibit the land disposal of certain hazardous wastes after specified dates unless these wastes have been treated to meet the EPA-specified treatment standards. More specifically, section 3004(g)(4)(C) prohibits the land disposal, without prior treatment, of those hazardous wastes included in the Third Third of the scheduled wastes (which includes certain mixed radioactive/hazardous wastes), effective 66 months after the enactment of HSWA (May 8, 1990). The treatment standards established under section 3004(m) require EPA to set "levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste or that short-term and long-term threats to human health and the environment are minimized."

Congress recognized that in some cases adequate treatment capacity which is protective of human health and the environment might not be available by the applicable statutory effective dates and authorized EPA to grant a nationwide variance (based on the earliest date that such capacity will be available, but not to exceed two years) from the effective date that would otherwise apply to specific hazardous wastes. On June 1, 1990, EPA promulgated a final rule to establish treatment standards for the Third Third wastes (55 FR 22520). A two-year national capacity variance was granted for mixed wastes, establishing an effective date of May 8, 1992 (55 FR 22532 and 22689).

In addition, section 3004(h)(3) authorized EPA to grant additional extensions of the statutory deadlines, on a case-by-case basis, for up to one year. These extensions are renewable once for up to one additional year. On November 7, 1986, EPA published a final rule (51 FR 40572) establishing the regulatory framework to implement the LDR program, including the framwork for the application process, and promulgated the procedures for submitting case-by-case extension applications. This rule was codified at 40 CFR 268.5.

B. Demonstrations Evaluated During Application Review

Case-by-case extension applications must meet the requirements outlined in 40 CFR 268.5. These requirements include those specified in RCRA section 3004(h)(3): The applicant must have entered into a binding contractual commitment to construct or otherwise provide alternative capacity (40 CFR 268.5(a)(2)); the applicant must show that due to circumstances beyond his control, this alternative capacity cannot reasonably be made available by the applicable effective date (40 CFR 268.5(a)(3)); and, if the waste is being managed in a surface impoundment or landfill during the extension period, the unit must meet the minimum technological requirements for these units (40 CFR 258.5(a)(7)).

In addition, EPA has established by regulation other requirements: The applicant must demonstrate that he has made a good-faith effort to locate and contract with treatment, recovery, or disposal facilities nationwide to manage his waste (40 CFR 268.5(a)(1)); the applicant must show that the alternative capacity will be sufficient to manage the entire quantity of waste (40 CFR 268.5(a)(4)); the applicant must submit a schedule for obtaining required operating and construction permits or an outline of how and when alternative capacity will be available (40 CFR 268.5(a)(5)); and the applicant must show that he has arranged for sufficient capacity to manage the entire quantity of waste which is the subject of his application during the requested extension period, and to document in his case-by-case application the location of all facilities at which the waste will be managed (40 CFR 268.5(a)(6)).

After these demonstrations are satisfied, and after providing notice and opportunity for public comment and consultation with appropriate State agencies in all affected States (for the purposes of implementing 40 CFR 268.5 defined as those States with responsibility for regulating the applicant's RCRA facilities), the Administrator may, on a case-by-case basis, grant an extension of the effective date for up to one year. An extension may be renewed once for no more than one additional year.

After an applicant has been granted a case-by-case extension, the applicant is required to keep EPA informed of the progress being made towards obtaining adequate alternative capacity. Any change in the demonstrations made in the application must be reported immediately to EPA (40 CFR 268.5(f)). The applicant must also submit progress reports which describe the progress being made towards obtaining adequate alternative capacity, identify any delay or possible delay in developing the capacity, and describe any mitigating actions being taken in response to such delays (40 CFR 268.5(g)).

II. DOE's Case-by-Case Petition

A. Overview

1. Basis for Petition

DOE has submitted an application for a case-by-case LDR extension for certain types of mixed wastes generated at 31 of its facilities. Mixed wastes are those wastes that contain both radioactive constituents subject to the Atomic Energy Act (AEA), and constituents that are either listed as a hazardous waste in subpart D of 40 CFR part 261, or exhibit any of the hazardous waste characteristics identified in subpart C of 40 CFR part 261. Hazardous portions of mixed wastes are subject to

RCRA regulations while the radioactive component is regulated under the AEA.

As part of its mission, DOE owns and operates facilities nationwide that engage in research and production activities in the areas of nuclear weapons, energy, and medicine. Such facilities have been operated by DOE and its predecessor agencies since the early 1940s, and the generation of mixed waste has long been a consequence of their activities. DOE also has been storing and treating mixed wastes for many years.

DOE is requesting the case-by-case extension for Third Third mixed wastes generated at the following 31 facilities:

1. Argonne National Laboratory—East (ANL–E); Argonne, Illinois
2. Argonne National Laboratory—West (ANL–W); Idaho Falls, Idaho
3. Bettis Atomic Power Laboratory (BAPL); West Mifflin, Pennsylvania
4. Brookhaven National Laboratory (BNL); Upton, New York
5. Colonie Interim Storage Site (CISS); Colonie, New York
6. Energy Technology and Engineering Center (ETEC); Canoga Park, California
7. Feed Materials Production Center (FMPC); Fernald, Ohio (Now: Fernald Environmental Management Project)
8. Fermi National Accelerator Laboratory (FNAL); Batavia, Illinois
9. Hanford Site (Hanford); Richland, Washington
10. Idaho National Engineering Laboratory (INEL); Idaho Falls, Idaho
11. Inhalation Toxicology Research Institute (ITRI); Albuquerque, New Mexico
12. K–25; Oak Ridge, Tennessee
13. Kansas City Plant (KCP); Kansas City, Missouri
14. Knolls Atomic Power Laboratory—Kesselring Site (KAPL–KS); West Milton, New York
15. Knolls Atomic Power Laboratory (KAPL); Niskayuna, New York
16. Lawrence Berkeley Laboratory (LBL); Berkeley, California
17. Lawrence Livermore National Laboratory (LLNL); Livermore, California
18. Los Alamos National Laboratory (LANL); Los Alamos, New Mexico
19. Mound Plant (Mound); Miamisburg, Ohio
20. Naval Reactor Facility (NRF); Idaho Falls, Idaho
21. Oak Ridge National Laboratory (ORNL); Oak Ridge, Tennessee
22. Paducah Gaseous Diffusion Plant (PGDP); Paducah, Kentucky
23. Pantex Plant (Pantex); Amarillo, Texas
24. Portsmouth Gaseous Diffusion Plant (PORTS); Piketon, Ohio
25. Rocky Flats Plant (RFP); Golden, Colorado
26. Sandia National Laboratories—Albuquerque (SNLA); Albuquerque, New Mexico
27. Sandia National Laboratories—Livermore (SNLL); Livermore, California
28. Savannah River Site (SRS); Aiken, South Carolina
29. Weldon Spring Remedial Action Project (WELD); St. Charles, Missouri
30. West Valley Demonstration Project (WVDP); West Valley, New York
31. Y–12 Plant (Y–12); Oak Ridge, Tennessee

The application relates to mixed wastes that DOE expects to generate or place in storage after May 8, 1992, and for which DOE will not have sufficient treatment, recovery, or protective disposal capacity by the date.[1]

In its original application, DOE requested the extension for 214 mixed wastes at 28 facilities. In an amendment dated January 15, 1992, DOE requested an extension for 143 additional mixed waste streams of which 142 are no longer generated. These 142 mixed waste streams, together with the already generated quantities of the 214 mixed waste streams identified in DOE's original application, were or are to be placed into storage before the May 8, 1992, LDR effective date. If placed into storage prior to the effective date, such wastes are not subject to the storage prohibition unless they are removed from storage. DOE believes it may be necessary in the future to manage these wastes in a manner that constitutes removal from storage while they await proper treatment. These mixed wastes would then become subject to the LDR storage prohibition, and DOE is therefore requesting a case-by-case (CBC) extension for these mixed wastes.

In the application amendment, DOE identified four additional facilities which in the past have generated 35 of the no longer generated mixed wastes. The remainder were generated at facilities previously identified in the application. One additional mixed waste, identified at Idaho National Engineering Laboratory (INEL), is expected to continue to be generated after the effective date.

Subsequently, DOE requested withdrawal of five low level mixed wastes from its application. These include:(1) Radioactively contaminated lead in Treatability Group 12; and (2) radioactive and RCRA-contaminated re-entry mining waste in Treatability Group 14. Both of these mixed wastes are generated at the Nevada Test Site (NTS), and were the only ones at NTS for which DOE requested a case-by-case extension. Therefore, DOE has withdrawn NTS from its application. In addition, DOE requested withdrawal of all three mixed wastes in Treatability Group 15 which require metals recovery as the treatment technology. Thus DOE's application now requests an extension of the LDR effective date for 352 mixed wastes (309 low level, 41 transuranic, two high level) at 31 facilities.

The mixed wastes are described by EPA waste codes and DOE-established treatability groups in the appendix of this Notice. Details of the mixed wastes are contained in the appendices of the application. The application, amendment, appendices, and other supporting information are available for inspection in the EPA Docket.

DOE also advised EPA that it intends to request a renewal of the extension for a second twelve month period as provided for in 40 CFR 268.5(e).

2. Approach Used by DOE

DOE's approach in applying for a case-by-case extension was to apply for an extension for all DOE sites generating mixed wastes for which treatment capacity is presently lacking. As a result, DOE collected information from all sites on current and planned mixed waste generation, storage, treatment, recovery, and disposal. DOE then compiled this information to perform the demonstrations required under 40 CFR 268.5(a) for each mixed waste at each facility.

DOE utilized the following steps in applying for the case-by-case extension.

a. Identifying and quantifying DOE's mixed wastes requiring treatment or recovery to meet LDR standards. DOE collected and compiled data on mixed wastes so that it could determine the LDR treatment requirements for each mixed waste. DOE included data on the EPA waste codes, the physical and chemical characteristics of the wastes, the waste matrix, the radiological classification of the wastes, whether the wastes are still generated, the generation rate, and the quantities in storage. Each mixed waste stream was classified according to its various characteristics and treatment requirements. As a result of this effort, DOE classified the mixed wastes into separate categories, known as treatability groups, with distinct LDR treatment and recovery requirements.

b. Identifying and Quantifying DOE's CBC-applicable mixed wastes. DOE reviewed each treatability group to determine whether the wastes were subject to LDR requirements for California List wastes or Solvents and Dioxins wastes. Wastes subject to those requirements are ineligible for an extension. DOE then categorized the remaining mixed wastes as to whether future generation was anticipated. Wastes that were generated in the past, but were not projected to be generated after the May 8, 1992, LDR effective date

[1] Under section 3004 of RCRA, land disposal of these Third Third mixed wastes is prohibited after the LDR effective date (May 8, 1992) except for methods of disposal determined by EPA to be protective of human health and the environment.

for Third Third wastes are not subject to land disposal restrictions and do not require an extension unless they are later re-managed (e.g., removed from storage). The remaining wastes were then included in DOE's original application.

In its amendment to the application, DOE identified certain no longer generated mixed wastes that may require management during the proposed extension period. Such management would involve replacement in or on the land and therefore trigger the LDR requirements including the storage prohibition of section 3004(j) of RCRA. These mixed wastes were subsequently categorized by DOE as CBC-applicable mixed waste and added to the LDR case-by-case extension request. Altogether, DOE has identified a total of 352 mixed wastes as CBC-applicable mixed waste at 31 different facilities.

These mixed waste streams then were categorized into 21 distinct treatability groups based on physical and chemical characteristics. DOE further categorized the mixed wastes according to radioactivity characteristics as low level, transuranic, or high level. DOE has categorized the first 18 treatability groups as low level mixed wastes. However, subsequent to this categorization, DOE determined that the mixed wastes in Treatability Group 15 non-CBC-applicable and has withdrawn them. Two other treatability groups are specific to high level mixed wastes, and one treatability group is specific to transuranic mixed wastes.

The treatability groups, affected facilities, number of waste streams, generation rates, and inventories are shown in Table A-1, "Summary of Treatability Groups and Affected Facilities." Tables and appendices in the application and amendment (available in the RCRA Docket) provide detailed listings and cross-listings of all the mixed wastes and treatability groups.

DOE has defined the treatability groups as follows.

(1) Treatability Group No. 1—Ignitable Liquids—TOC >10 Percent.

TABLE A-1.—SUMMARY OF TREATABILITY GROUPS AND AFFECTED FACILITIES

Treatability groups	Affected facilities[1,2]	Number of mixed waste streams	Total generation rate-m³/yr	Total inventory as of 5/8/92 m³
1. LLW Ignitable Liquids TOC>10%	BNL, FMPC, HANFORD, CISS, ITRI, RFP, INEL, ORNL, PGDP, MOUND, WELD, PORTS, SRS, ANL-E, PANTEX, WVDP	39	208	412
2. LLW P&U Listed Organic Nonwastewaters	ORNL, FMPC, WELD	5	0.2	5
3. LLW P&U Listed Organic Nonwastewater-C, H, O.	ORNL, ANL-E	4	0.1	4
4. LLW TC Metal Nonignitable Organic Liquid	FMPC, INEL, PGDP, BAPL, CISS, PORTS	15	44	87
5. LLW LDR Appendix IV Labpacks and LLW LDR Appendix V Labpacks.	LANL, INEL, ORNL	7	3	16
6. LLW TC Metal Organic Solid Debris	FMPC, HANFORD, INEL, ANL-E, LANL, ORNL, PGDP, RFP, NRF, WELD, SRS	35	45	907
7. LLW RMW PCB Solids—50ppm < PCB < 500ppm.	HANFORD, PGDP, Y-12, K-25	4	23	121
8. LLW TC Metal Nonwastewaters	ANL-E, ANL-W, FMPC, LANL, RFP, SRS, HANFORD, INEL, K-25, LBL, ORNL, WELD, PGDP, PORTS, SNLL, WVDP, Y-12, BAPL, CISS	71	620	4,295
9. LLW F006, F007, F008, F009 Non-wastewaters.	RFP, SRS, Y-12, CISS, K-25	13	6,702	48,053
10. LLW P&U Listed Inorganic Cyanide Non-wastewaters.	ORNL	1	0.001	0.003
11. LLW Ignitable and/or Water Reactives	ANL-W, HANFORD, ORNL, LANL, SNLA, Y-12, INEL	14	6	36
12. LLW Radioactive Lead Solids	ANL-E, ANL-W, BAPL, ETEC, HANFORD, SNLA, SRS, INEL, KAPL, KCP, KAPL-KS, LANL, FMPC, K-25, LBL, MOUND, ORNL, PGDP, RFP, WVDP, LANL, NRF, WELD	37	104	946
13. LLW TC Metal Inorganic Solid Debris	ANL-W, FERMI, FMPC, HANFORD, INEL, KAPL, KCP, KAPL-KS, LANL, LLNL, PGDP, NRF, PORTS, PANTEX, RFP, SNLA, SRS, CISS	48	165	729
14. LLW TC Metal Soil	HANFORD, FMPC, K-25, SRS, Y-12, PORTS	7	0.1	411
15. (2)				
16. LLW TC Metal Wastewaters	SRS, FMPC, INEL	7	810	1,423
17. LLW TC Pesticide Nonwastewater	WELD	1	0	0.2
18. LLW Unquantifiable P&U Listed Organic Wastewaters—C, H, O.	INEL	1	11,060	N/A[3]
19., 20. HLW	INEL	2	2,965	11,558
21. TRU	ANL-E, ANL-W, ETEC, HANFORD, INEL, LLNL, MOUND, ORNL, RFP, SNLA, SRS, WVDP	41	138	1,808

NOTES: (1) For legends refer to facilities listings in Section II (Overview). (2) Treatability Group No. 15 is non-CBC applicable. (3) Treated as Generated; See Section II.D-10.

This treatability group is defined in the Third Third LDR rule (55 FR 22543) as liquid wastes that exhibit the characteristic of ignitability (D001) and have a total organic carbon (TOC) content greater than or equal to 10 percent. Some of the low level mixed wastes within this treatability group also exhibit the characteristics of corrosivity (D002) and/or toxicity for metals (D004–D011). The LDR treatment standard for these wastes is the technology-based standard of either incineration, fuel substitution, or organics recovery. Due to the radioactive component of mixed waste, DOE believes that incineration is the most viable technology for this treatability group. Therefore, DOE is seeking to demonstrate that sufficient treatment capacity will exist for mixed wastes in this treatability group by documenting its efforts to provide incineration facilities.

The incinerator ash from treatment of the mixed wastes that exhibit the toxicity characteristic (TC) for metals would be required to meet the applicable LDR treatment standards for the metals. Such ash is essentially a new

mixed waste that would be within Treatability Group No. 8, Low Level Mixed Waste TC Metal Nonwastewater.

(2) Treatability Group No. 2—Low Level Mixed Waste P&U Listed Organic Nonwastewaters. The Third Third LDR rule (55 FR 22601) established concentration-based treatment standards for the nonwastewater forms of numerous P&U Listed Organics. This treatability group includes all nonwastewater low level mixed wastes that contain any one or more of the P&U Listed Organics. DOE's mixed wastes within this group are typically small volumes generated from the cleanout of expired laboratory chemicals. Incineration is identified as the best demonstrated available technology (BDAT) for these wastes in LDR regulations. Therefore, DOE is seeking to demonstrate that sufficient treatment capacity will exist for this treatability group by documenting its efforts to provide incineration facilities.

(3) Treatability Group No. 3—Low Level Mixed Waste Unquantifiable P&U Listed Organic Nonwastewaters—C, H, O. The Third Third LDR rule (55 FR 22611) established technology-based treatment standards for the nonwastewater forms of numerous P&U Listed Organics that only contain carbon, hydrogen, and oxygen (C, H, O) in their molecular structure. This treatability group includes all nonwastewater mixed wastes which contain any one or more of those constituents. DOE's mixed wastes within this group are typically small volumes generated from the cleanout of expired laboratory chemicals.

The LDR regulations require treatment of these wastes by either incineration or fuel substitution. Due to the radioactive component of mixed waste, DOE believes that incineration is the most viable technology for this treatability group. Therefore, DOE is seeking to demonstrate that sufficient treatment capacity will exist for this treatability group by documenting its efforts to provide incineration facilities.

(4) Treatability Group No. 4—Low Level Mixed Waste TC Metal Nonignitable Organic Liquid. This treatability group includes all organic low level mixed wastes that exhibit the characteristic of toxicity due to metals (D004–D011) and/or corrosivity (D002). The organic liquids in these mixed wastes, absent the metals and/or corrosive characteristics, are not RCRA-regulated wastes. DOE states that its mixed wastes within this treatability group are typically waste oils contaminated with TC metals.

This specific waste matrix is not addressed in the Third Third LDR rule. By definition, mixed waste within this group are considered nonwastewaters and are subject to the concentration-based treatment standards for nonwastewaters (except for D009, for which DOE currently has not identified any such CBC-applicable mixed waste) as discussed for Treatability Group No. 8, Low Level Mixed Waste TC Metal Nonwastewaters. DOE plans to incinerate mixed wastes within this treatability group and is seeking to demonstrate that sufficient treatment capacity will exist for this treatability group by documenting its efforts to provide incineration facilities.

The incinerator ash would be required to meet the applicable LDR treatment standards for TC metals. Such ash would be within Treatability Group No. 8, Low Level Mixed Waste TC Metal Nonwastewaters.

(5) Treatability Group No. 5—Low Level Mixed Waste LDR Appendix IV Labpacks and Low Level Mixed Waste LDR Appendix V Labpacks. The Third Third LDR rule (55 FR 22629) established treatment standards for two different labpack categories. The hazardous constituents (e.g., EPA waste codes) allowed in labpacks within these treatability groups are specified in appendices IV and V of 40 CFR part 268. Both LDR appendix IV and V labpacks may contain numerous P, U, F, and K listed wastes. Both may also contain wasted exhibiting the characteristics of ignitability (D001), and toxicity due to halogenated pesticides (D012–D017). However, only LDR appendix IV labpacks may contain wastes exhibiting the characteristics of corrosivity (D002), reactivity (D003), and toxicity due to metals (D004–D008, D010, D011). Wastes that are characteristically toxic due to mercury (D009) are not allowed in either LDR appendix IV or V labpacks. Commingling of unregulated (nonhazardous) wastes and hazardous wastes that already meet treatment standards is allowed in both LDR appendix IV and V labpacks.

The technology-based treatment standards require incineration for both LDR appendices IV and V labpack treatability groups. Therefore, DOE is seeking to demonstrate that sufficient treatment capacity will exist for this treatability group by documenting its efforts to provide incineration facilities. The incinerator ash from treatment of LDR appendix IV labpacks that contains one or more of the TC metals (D004–D008, D010, D011) also requires subsequent treatment to meet the applicable LDR treatment standards for the metals. Such ash is essentially a new mixed waste that would be within Treatability Group No. 8, Low Level Mixed Waste TC Metal Nonwastewaters.

(6) Treatability Group No. 6—Low Level Mixed Waste TC Metal Organic Solid Debris. This treatability group includes all low level mixed wastes that exhibit the characteristic of toxicity due to metals (D004–D011) with matrices that are predominantly organic solid debris material. However, the matrices of some of the mixed wastes consist of a combination of both organic and inorganic solid debris (see Treatability Group No. 13). Examples of mixed wastes within this treatability group include materials generated from facility maintenance and spill cleanups (e.g., rags, paper), filter media, and lead-lined gloves. Some of the mixed wastes within this treatability group are also corrosive (D002) and/or ignitable (D001). This group also includes one Savannah River Site mixed waste that consists of filter paper contaminated with F006 waste.

By definition, mixed wastes within this group are nonwastewaters and are subject to the same treatment standards for metals as discussed below for Treatability Group No. 8, Low Level Mixed Waste TC Metal Nonwastewaters. However, as discussed in the Third Third LDR rule (55 FR 22555), incineration may be a first step in the treatment of this treatability group. Therefore, DOE is seeking to demonstrate that sufficient treatment capacity will exist for this treatability group by documenting its efforts to provide incineration facilities. As noted above, the matrices of some mixed wastes within this group are a mix of organic and inorganic debris. Sorting of these mixed wastes may be a necessary step prior to incineration.

As with the ash generated from incineration of wastes in other treatability groups, incineration residues from wastes in this treatability group would require subsequent treatment to meet the applicable LDR treatment standards for the metals. Such ash would be within Treatability Group No. 8, Low Level Mixed Waste TC Metal Nonwastewaters.

(7) Treatability Group No. 7—Low Level Mixed Waste PCB Solids—50 ppm<PCB <500 ppm. This treatability group includes all low level mixed wastes with solid matrices that contain polychlorinated biphenyls (PCBs) in concentrations greater than or equal to 50 ppm and less than 500 ppm. The mixed wastes within this treatability group are primarily PCB-contaminated sludges and soils that exhibit the characteristic of toxicity due to metals (D004–D011).

Regardless of the applicable EPA waste codes, the determining factor for categorizing a mixed waste into this treatability group is the presence of PCBs. The Toxic Substance Control Act (TSCA) regulations in 40 CFR 761.60 require that non-liquid wastes with PCBs in the 50 to 500 ppm range be incinerated in compliance with 40 CFR 761.70 or placed in a chemical waste landfill which complies with 40 CFR 761.75. Since the wastes within this treatability group are also RCRA hazardous wastes, treatment prior to disposal is necessary to comply with the land disposal restriction as well. DOE plans to use incineration to destroy the PCBs. Therefore, DOE is seeking to demonstrate that sufficient treatment capacity will exist for this treatability group by documenting its efforts to provide incineration facilities.

The residues generated from treatment of wastes in this treatability group that exhibit the characteristic of toxicity for metals would require subsequent treatment to meet the applicable LDR treatment standards for the metals. Such residues, like others from Treatability Groups 4, 5, and 6, would be within Treatability Group No. 8, Low Level Mixed Waste TC Metal Nonwastewaters.

(8) Treatability Group No. 8—Low Level Mixed Waste TC Metal Nonwastewaters. This treatability group includes all nonwastewater low level mixed wastes that exhibit the characteristic of toxicity for one or more of the metals (D004–D011) and are not within any of the groups discussed elsewhere in this section for specific waste forms. Examples of low level mixed wastes within this treatability group are dry or wet solids, such as incinerator ash, or sludges and filter cakes from wastewater treatment and other processes. Some of the mixed wastes may also exhibit the characteristics of corrosivity (D002) and/or ignitability (D001).

Except for wastes that are characteristically toxic for mercury, certain high level mixed wastes, and lead solids, the Third Third LDR rule (55 FR 22555–22575) established concentration-based treatment standards for the nonwastewater forms of waste containing each of the TC metals. Two treatment standards were established for nonwastewaters containing mercury (D009). The treatment standard is concentration-based for those with total mercury concentrations less than 260 milligrams per kilogram (mg/kg), while the treatment standard is technology-based for those with total mercury concentrations greater than or equal to 260 mg/kg.

The applicable BDATs for achieving the concentration-based standards are as follows:

- Vitrification for wastes that are characteristically toxic for arsenic (D004);
- Conventional stabilization for wastes that are characteristically toxic for barium (D005), cadmium (D006), lead (D008), selenium (D010), and silver (D011);
- Reduction (if necessary) followed by conventional stabilization for wastes that are characteristically toxic for chromium (D007); and
- Acid leaching followed by chemical precipitation for wastes that are characteristically toxic for mercury (D009) but with total mercury concentrations less than 260 mg/kg.

The specified technologies for wastes that are characteristically toxic for mercury (D009) and have total mercury concentrations greater than or equal to 260 mg/kg are roasting or retorting.

DOE is seeking to demonstrate that sufficient treatment capacity will exist for this treatability group by documenting its efforts to provide stabilization facilities. However, the low level mixed wastes within this treatability group that are characteristically toxic for arsenic (D004), chromium (D007), or mercury (D009) may also require pre-treatment by one of the other technologies discussed above. In the event that pre-treatment would be necessary for any of these, DOE would provide that treatment capacity as a step in the stabilization process.

(9) Treatability Group No. 9—Low Level Mixed Waste F006, F007, F008, F009 Nonwastewaters. This treatability group includes all nonwastewater low level mixed wastes for which any one or more of the EPA waste codes F006, F007, F008, and F009 apply. The mixed wastes in this treatability group typically consist of sludges and filter cakes from the treatment of spent plating solutions.

Treatment standards for metals in F006 nonwastewaters were promulgated in the First Third LDR rule (53 FR 31152), while treatment standards for cyanides in F006 nonwastewaters were promulgated in the Second Third LDR rule (54 FR 22611). Treatment standards for metals and cyanides in F007, F008, and F009 nonwastewaters were also promulgated in the Second Third LDR rule (54 FR 22611). The same concentration-based standards were set for cyanides and the various metals for all four EPA waste codes.

The BDAT for achieving the cyanide standards for all four EPA waste codes is alkaline chlorination. The BDAT for achieving the metal standards for all four EPA waste codes is stabilization. DOE stated that it believes some of the mixed wastes (e.g., pondcrete and saltcrete at Rocky Flats Plant (RFP)) within this treatability group already meet the treatment standards for cyanides without additional treatment. Therefore, DOE is seeking to demonstrate that sufficient capacity will exist for this treatability group by documenting its efforts to provide stabilization facilities. If some mixed wastes are determined to require treatment to meet the cyanide standards, DOE states this capacity would be provided by the planned facilities.

(10) Treatability Group No. 10—Low Level Mixed Waste P & U Listed Inorganic Cyanide Nonwastewaters. The Second Third LDR rule (54 FR 22614) established concentration-based treatment standards for the nonwastewater forms of numerous P listed, cyanide-containing inorganics. This treatability group includes all nonwastewater low level mixed wastes that contain any one or more of those constituents. The mixed wastes within this group are typically small volumes generated from the cleanout of expired laboratory chemicals.

Concentration-based treatment standards were established for the cyanides and the metal cation, if regulated. The BDAT for achieving the cyanide standards is electrolytic oxidation followed by alkaline chlorination. The BDAT for achieving the metal standards, if regulated, is stabilization. DOE is seeking to demonstrate that sufficient capacity will exist for this treatability group by documenting its efforts to provide cyanide destruction and stabilization facilities.

(11) Treatability Group No. 11—Low Level Mixed Waste Ignitable and/or Water Reactives. This treatability group includes all low level mixed wastes that exhibit the characteristics of reactivity as defined in 40 CFR 261.23(a) (2), (3), and (4) (55 FR 22553), and those low level mixed wastes that exhibit the characteristics of ignitability as defined in 40 CFR 261.21(a)(2) (55 FR 22545). These low level mixed wastes are those that ignite upon contact with water or can generate toxic or explosive gases when combined with water. Examples of these wastes are those consisting of bulk alkali metals and equipment contaminated with alkali metals.

The treatment standard established for this treatability group is deactivation to remove the characteristics of reactivity and ignitability. Suggested technologies to remove the characteristics of reactivity and ignitability include controlled reactions with water, incineration, chemical oxidation, and chemical reduction. DOE is seeking to demonstrate that sufficient capacity will exist for this treatability group by documenting its efforts to provide deactivation facilities using various technologies that will oxidize the wastes.

(12) Treatability Group No. 12—Low Level Mixed Waste Radioactive Lead Solids. This treatability group is defined in the Third Third LDR rule (55 FR 22628) for radioactive elemental lead waste. Typical examples of low level mixed wastes within this group are lead bricks or sheets that were used for radiation shielding.

LDR regulations require these wastes be treated using microencapsulation before land disposal. As an alternative however, the lead may be decontaminated to remove the radioactive component, and the nonradioactive lead is managed as a nonradioactive hazardous waste or recycled. Examples of decontamination technologies are washing, abrasive blasting, and melting. DOE is seeking to demonstrate that sufficient treatment capacity will exist for this treatability group by documenting its efforts to provide decontamination and microencapsulation facilities.

(13) Treatability Group No. 13—Low Level Mixed Waste TC Metal Inorganic Solid Debris. This treatability group is defined in the Third Third LDR rule (55 FR 22556) for wastes that exhibit the characteristic of toxicity due to metals (D004–D011) with matrices that are nonfriable, inorganic solids. The rule specified that inorganic solids within the group that are incapable of passing through a 9.5 millimeter (mm) standard sieve are required to be mechanically size-reduced using cutting, crushing, or grinding prior to stabilization. The rule further specified that the solids are limited to the following inorganic or metal materials:

(1) Metal slags (either dross or scoria);
(2) Glassified slag;
(3) Glass;
(4) Concrete (excluding cementious or pozzolanic stabilized hazardous wastes);
(5) Masonry and refractory bricks;
(6) Metal cans, containers, drums or tanks;
(7) Metal nuts, bolts, pipes, pumps, valves, appliances, or industrial equipment; and
(8) Scrap metal defined in 40 CFR 261.1(c)(6).

The matrices of the low level mixed wastes within this treatability group are predominantly inorganic solid debris material. However, some of the mixed wastes consist of a combination of both organic and inorganic solid debris (see Treatability Group No. 8). The mixed wastes within this treatability group contain a variety of solid materials such as crushed glass, ceramic packing from process off-gas treatment units, metal sheets and turnings, and contaminated equipment (e.g., pumps, filters, etc.).

The Third Third LDR rule did not promulgate separate treatment standards or provide recommended BDATs for this treatability group. Under the current LDR regulations, the mixed wastes within this group are defined as nonwastewaters and are subject to the same treatment standards for metals as discussed for Treatability Group No. 8, Low Level Mixed Waste TC Metal Nonwastewaters.

On January 9, 1992, EPA issued a proposed rule for LDR treatment standards for newly listed wastes and for revisions to the standards for contaminated debris (57 FR 958). EPA notes that the proposed definitions of contaminated debris are consistent with those used by DOE (57 FR 983), and that DOE is planning to use treatment technologies that would be included as BDAT technologies in the proposed rule (57 FR 987).

Considering the variety of waste matrices, several treatment technologies will be necessary for this treatability group. Candidate technologies can generally be categorized as follows:

- *Destruction.* An example of this category is incineration. As noted above, the matrices for some mixed wastes within this group may include organic solid debris material. Sorting the inorganic from the organic debris in these mixed wastes may be the first step in treatment, with subsequent incineration of the organic portion.
- *Physical Separation.* Examples of these technologies are washing, steam cleaning, extraction, abrasive blasting and, for wastes characteristically toxic for mercury, roasting.
- *Immobilization.* Examples of these technologies are microencapsulation and stabilization.

Many of the mixed wastes in this group are materials that can be effectively decontaminated to remove their hazardous characteristics. DOE intends to decontaminate where possible. The decontamination methods to be used will include or be similar to the physical separation techniques identified above. A stabilization process will be utilized for other mixed wastes. DOE is seeking to demonstrate that sufficient treatment capacity will exist for this treatability group by documenting its efforts to provide inorganic debris treatment facilities.

(14). Treatability Group No. 14—Low Level Mixed Waste TC Metal Soil. This treatability group includes all low level mixed wastes that consist predominantly of soil contaminated with TC metals. The mixed wastes within this group are typically generated from remedial action and environmental restoration activities.

The Third Third LDR rule (55 FR 22625) did not establish a separate treatability group and treatment standards for TC metal-contaminated soils. This was deferred for a later rulemaking which has not yet been issued. Therefore, under the current LDR regulations, the mixed wastes within this group are defined as nonwastewaters and are subject to the same treatment standards for metals as discussed for Treatability Group No. 8, Low Level Mixed Waste TC Metal Nonwastewaters.

Examples of candidate technologies for treatment of TC metal-contaminated soils are soil washing or extraction and stabilization. DOE is seeking to demonstrate that sufficient treatment capacity will exist for this treatability group by documenting its efforts to provide stabilization facilities.

(16) Treatability Group No. 16—Low Level Mixed Waste TC Metal Wastewaters. This treatability group includes all wastewater low level mixed wastes that exhibit the characteristics of toxicity for one or more of the metals (D004–D011) whose metals concentrations are below the California List metals limits. The Third Third LDR rule (55 FR 22555–22575) established concentration-based standards for these wastewaters based on various BDAT wastewater treatment technologies. DOE has identified seven CBC-applicable low level mixed wastes in this treatability group; four at the Savannah River Site, two at the Idaho National Engineering Laboratory, and one at the Feed Materials Production Center. DOE plans to treat these mixed wastes using ion exchange treatment facilities. Therefore, DOE is seeking to demonstrate that sufficient treatment capacity will exist for this treatability group by documenting its efforts to provide ion exchange treatment facilities.

The spent resin generated from this process would have to be evaluated to determine whether it is hazardous due to its TC metal extractable

concentration; if so, it would be a new mixed waste within Treatability Group No. 8, Low Level Mixed Waste TC Metal Nonwastewaters, and would be treated with capacity DOE is planning to provide for this group.

(17) Treatability Group No. 17—Low Level Mixed Waste TC Pesticide Nonwastewaters. Treatability Group No. 17 includes all low level mixed waste that exhibit the RCRA toxicity characteristic for any of the six pesticides for which a hazardous waste toxicity characteristic concentration level has been established. The EPA wastes codes for these six characteristic pesticide wastes are D012 through D017. DOE has identified only one CBC-applicable low level mixed waste in this treatability group. This mixed waste, which is no longer being generated, is being managed at DOE's Weldon Spring Remedial Action Project (WELD) facility.

The Third Third LDR rule (55 FR 22554) established concentration-based treatment standards based on a BDAT of incineration. Therefore, DOE is seeking to demonstrate that sufficient treatment capacity will exist for this treatability group by documenting its efforts to provide incineration facilities.

(18) Treatability Group No. 18—Low Level Mixed Waste Unquantifiable P & U Listed Organic Wastewaters—C, H, O. The Third Third LDR rule (55 FR 22612) established technology-based treatment standards for the wastewater forms of numerous P & U Listed Organics that contain only carbon, hydrogen, and oxygen (C, H, and O) in their molecular structure. DOE has identified only one CBC-applicable low level mixed waste in this treatability group: The P & U Listed RAD Contaminated Condensate mixed waste at INEL.

LDR regulations require treatment of these wastes by either incineration or oxidation (wet air or chemical) followed by carbon adsorption. However, due to the special characteristics of these mixed wastes, DOE is planning to manage this stream using pretreatment followed by calcination and vitrification as an alternative to the established technology-based treatment standard; DOE plans to perform the alternative treatment in accordance with LDR requirements for variances from treatment standards in 40 CFR 268.44.

(19, 20) Treatability Groups Nos. 19 and 20—High Level Mixed Wastes. High level mixed wastes are managed separately and the DOE application addressed two CBC-applicable high level mixed waste streams which are generated only at the Idaho National Engineering Laboratory. DOE plans to use vitrification to meet the LDR required treatment standard.

High level mixed wastes have also been generated at Hanford, the Savannah River Site, and the West Valley Demonstration Project. DOE has determined, however, that these high level mixed wastes are not CBC-applicable and therefore they are not considered further in this Notice. Likewise, the treatment (vitrification) facilities at these sites are not considered.

Each of the two mixed waste streams, high level liquid waste and high level waste calcine, constitutes its own separate treatability group. However, the two streams are related in that the high level liquid waste stream, after pretreatment, becomes the high level waste calcine stream. Therefore, the total vitrification capacity needed to manage these two streams can be represented by the generation rate and stored inventories of the high level waste calcine stream.

DOE is seeking to demonstrate that sufficient capacity will exist for these treatability groups by documenting its efforts to provide vitrification facilities.

(21) Treatability Group No. 21—Transuranic Mixed Wastes. DOE is managing its transuranic mixed wastes separately from low level mixed wastes and has identified that it is generating a total of 34 transuranic mixed wastes at 12 facilities. The individual facilities are identified and described in the Appendix of this Notice. The total generation rate is approximately 138 m^3/yr. In addition, in storage at four of these facilities are another seven transuranic mixed wastes comprising an additional 664 m^3. While these seven transuranic mixed wastes are no longer generated, DOE has stated that it may want to remove them from storage during the extension, thus considering them as CBC-applicable. The affected facilities, waste streams, generation rates, and inventories are identified in the facility-specific sections in the Appendix. The total inventories are summarized in Table A–1.

DOE's management strategy for transuranic mixed wastes consists of storage at generating sites in RCRA-permitted and interim status facilities, followed by shipment to and disposal in an underground geologic repository. This DOE repository, known as the Waste Isolation Pilot Plant (WIPP), was authorized by section 213 of Public Law 96–164 and has been constructed by DOE in southeastern New Mexico, approximately 26 miles east of Carlsbad.[2]

In accordance with 40 CFR 268.6, in March 1989, DOE petitioned EPA for a No-Migration Variance for WIPP. An approved No-Migration Variance is the only basis under which mixed wastes can be disposed without treatment. On November 14, 1990, EPA granted a conditional no-migration determination for testing and experimentation to determine the long-term acceptability of the WIPP (55 FR 47700). Under this decision, DOE can place up to 8,500 drums of mixed wastes or 1 percent of the total capacity of the repository, as currently planned.

DOE has determined that WIPP is ready for operation to receive transuranic mixed wastes on a test basis under the conditions of EPA's no-migration determination. However, DOE may not begin receiving mixed wastes at WIPP until the land has been withdrawn from the public domain. This action has not yet been completed, and, in addition, ongoing litigation also prohibits DOE from shipping transuranic mixed wastes to WIPP for disposal. Thus, the schedule for shipment of transuranic mixed wastes to WIPP cannot be determined.

EPA's proposed conclusions as to how this DOE strategy for transuranic mixed waste management meets the requirements of 40 CFR 268.5 are given in section II.C.8.

c. Identifying and quantifying treatment and capacity requirements and current and future needs. DOE segregated mixed wastes according to their radiological characteristics to determine the most appropriate treatment alternatives for the waste.

For the low level and high level mixed waste streams, the following treatment and recovery technologies were identified as being required to meet the LDR standards for those wastes:

- Incineration.
- Stabilization.
- Oxidation via Thermal or Water Reaction.
- Lead Decontamination and Recycling or Microencapsulation.
- Cyanide Destruction.
- Inorganic Debris Treatment.
- Ion Exchange.
- Vitrification (for high level mixed wastes).

DOE believes it has been able to identify technologies that can treat low

[2] Public Law 96–164, "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980, Section 213, Waste Isolation Pilot Plant, Delaware Basin, New Mexico."

level mixed wastes to meet the LDR standards. These technologies are similar to those used for nonradioactive hazardous waste, except that they incorporate contamination control and radionuclide immobilization measures. DOE states it also has, in some cases, been able to develop recovery technologies to manage mixed wastes in accordance with the LDR requirements. However, application of recovery technologies to mixed wastes is less feasible than treatment since the recovery process must include radiologically decontaminating the wastes, and radiological decontamination is not always technologically feasible.

DOE also believes it has been able to identify technologies that can effectively treat high level mixed wastes to meet the LDR standards. Since more extensive contamination control, radionuclide immobilization, and radiation shielding measures are needed to prudently manage high level mixed wastes due to their highly radioactive nature, they are managed separately from all other mixed wastes.

DOE analyzed its current and planned nationwide capabilities to treat (or recover) mixed wastes and compiled information from all DOE sites on their current and planned facilities. The collected information on each facility included the unit name and location, a basic description of the unit, the wastes that it would manage, the management requirements of treated residues, the pollution control equipment associated with the unit, the limitations of the unit, the feed rate and annual capacity of the unit, and a schedule for the availability of the unit. For planned units, all information had not yet been developed.

As a result of this effort, DOE compiled, and has provided in its application, information on 36 existing or planned treatment and recovery facilities located at 10 DOE sites. Five of the facilities are currently operating; the planned facilities include those in conceptual design, detailed design, construction, and testing phases. Table A–2, "Treatment Technologies for CBC-Applicable Mixed Waste and Corresponding Treatability Groups," shows the treatment technologies and treatment standards which DOE intends to apply to each treatability group. Table A–3, "Summary of the Treatment Technology Requirements and Planned Capacity," shows the expected location, inventory, storage capacity, and expected total generation rate of mixed wastes requiring treatment.

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TABLE A-2
TREATMENT TECHNOLOGIES FOR CBC-APPLICABLE MIXED WASTE AND CORRESPONDING TREATABILITY GROUPS[c]

TREATMENT/RECOVERY TECHNOLOGY	TREATABILITY GROUP BY NUMBER AND NAME	TREATMENT STANDARD REQUIRED TECHNOLOGY OR BDAT[a]
Incineration	1. LLW Ignitable Liquids TOC>10%	Required, followed by stabilization, if necessary
	2. LLW P & U Listed Organic Nonwastewaters	BDAT
	3. LLW Unquantifiable P & U Listed Organic Nonwastewaters - C,H,O	Required
	4. LLW TC Metal Nonignitable Organic Liquid	BDAT, followed by stabilization
	5. LLW LDR Appendix IV Labpacks and LLW LDR Appendix V Labpacks	BDAT
	6. LLW TC Metal Organic Solid Debris	BDAT, followed by stabilization
	7. LLW RMW PCB Solids - 50ppm < PCB < 500ppm	Required
	13. LLW TC Metal Inorganic Solid Debris	BDAT (Not Yet Specified)
	17. LLW TC Pesticides Nonwastewaters	BDAT
Stabilization	1. LLW TC Metal Nonwastewater	BDAT, if necessary, preceded by incineration
	4. LLW TC Metal Nonignitable Organic Liquid	BDAT, preceded by incineration
	6. LLW TC Metal Organic Solid Debris	BDAT, preceded by incineration
	8. LLW TC Metal Nonwastewaters	BDAT
	9. LLW F006, F007, F008, F009 Nonwastewaters	BDAT, preceded by cyanide destruction, if necessary
	10. LLW P&U Listed Inorganic Cyanide Nonwastewasters	BDAT, preceded by cyanide destruction
	13. LLW TC Metal Inorganic Solid Debris	BDAT (Not Yet Specified)
	14. LLW TC Metal Soil	BDAT
	7. LLW RMW PCB Solids - 50ppm<PCB<500ppm	BDAT, preceded by incineration
Oxidation	11. LLW Ignitable and/or Water Reactives	BDAT
Lead Decontamination and Recycle/Macroencaps	12. LLW Radioactive Lead Solids	Required
Cyanide Destruction	10. LLW P&U Listed Inorganic Cyanide Nonwastewater	BDAT
Inorganic Debris Treatment	13. LLW TC Metal Inorganic Solids Debris	BDAT (Not Yet Specified)
Ion Exchange	16. LLW TC Metal Wastewaters	BDAT
Vitrification	High Level RMW Treatability Groups	Required
Vitrification[b]	18. LLW Unquantifiable P&U Listed Organic Wastewaters - C,H,O	b

a. "Required Technology" means that the LDR treatment standard requires use of this specific technology; "BDAT" means that the LDR concentration-based or characteristic-based treatment standard was developed using this technology. "BDAT (Not Yet Specified)" means that a separate treatability group and treatment standard for these mixed wastes have not yet been promulgated, and that until it is established, BDAT may be used to meet the concentration-based treatment standards that have been established for TC metals.

b. LDR regulations require treatment of these wastes by either incineration or by oxidation (wet air or chemical) followed by carbon absorption. However, due to the special characteristics of this mixed waste, DOE is planning to manage this stream using pretreatment followed by calcination and vitrification as an alternative to the established technology-based treatment standard. DOE plans to perform the alternative treatment in accordance with LDR requirements for variances from treatment standards in 40 CFR 268.44.

c. Does not include transuranic mixed wastes. Treatability Group No. 15 is non-CBC-applicable.

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TABLE A-3.—SUMMARY OF THE TREATMENT TECHNOLOGY REQUIREMENTS AND PLANNED CAPACITY

Treatment technology units	Total planned capacity m^3/yr	Date available
Incineration Technologies		
1. TSCA Incinerator (K-25)	1,435	[2]
2. WERF Incinerator (INEL)	884	1993
3. Controlled Air Incinerator (LANL)	271	1995
4. Mound Glass Melter (Mound)	182	1993
5. Consolidated Incinerator Facility (SRS)	948	1994
6. Fluidized Bed Unit (RFP)	60	2002
7. Idaho Waste Process. Facility-Incineration Unit (INEL)	[1]	2004
Total planned capacity m^3/yr	3,780	
Generation rate all types m^3/yr	1,658	
May 8, 1992—Inventory all types m^3	40,410	
Stabilization Technologies		
1. WERF-Grout Facility (INEL)	114	[2]
2. Z-Area Saltstone (SRS)	40,320	[2]
3. Cement Solidification System (WVDP)	160	[2]
4. Unit 42 Liquid Process Waste Trtmnt Fac. (RFP)	595	[2]
5. Grout Treatment Facility (Hanford)	15,000	1992
6. Halliburton Solidification (RFP)	15,912	1992
7. RMW Management Facility-Stabilization (SNLA)	[1]	1994
8. MW Treatment Facility-Stabilization Unit (Hanford)	20	1993
9. CIF Ashcrete Facility (SRS)	405	1995
10. HW Treatment Facility-Stabilization Unit (LANL)	139	1997
11. M-Area Waste (Disposal Facility (SRS)	4,542	1997
12. HW/MW Disposal Facility-Stabilization Unit (SRS)	[1]	1998
13. Microwave Melting Solidification System (RFP)	[1]	2003
14. Polymer Solidification (RFP)	[1]	2000
15. Idaho Waste Process. Facility-Stabilization Unit (INEL)	[1]	2004
16. Decontam. and Waste Treat. Facility-Stabilization Unit (LLNL)	113	1999
17. Waste Receiving and Process. Plant (Hanford)	1,500	1999
Total planned capacity m^3/yr	78,820	
Generation rate all types m^3/yr	26,971	
May 8, 1992—Inventory all types m^3	261,800	
Oxidation Technologies		
1. Mixed Waste Treatment Facility (Hanford)	20	1993
2. HW Trtmnt Fac-Reactive Waste Trtmnt Unit (LANL)	139	1997
3. Maintenance and Storage Facility (Hanford)	0.081	1995
Total planned capacity m^3/yr	159	
Generation rate all types m^3/yr	6	
May 8, 1992—Inventory all types m^3	36	
Lead Decontamination/Macroencapsulation		
1. Lead Encaps./Lead Decon. and Recycle Unit (LANL)	30	1992
2. Lead Recycling Fac (INEL)	300	1995
3. HW/MW Disposal Facility-Lead Macroencaps. Unit (SRS)	[1]	1997
Total planned capacity m^3/yr	330	
Generation rate all types m^3/yr	104	
May 8, 1992—Inventory all types m^3	946	

[1] Not determined.
[2] Currently available.

Other LL RMW treatment facilities	Generation rate all types m^3/yr	May 8, 1992 inventory all types m^3/yr	Total planned capacity m^3	Date available
1. SRL In-Tank Treatment System ((Ion Exchange)SRS)	810	2,432	4,720	1992
2. HW/MW Disposal Fac.-Mercury Trtmnt Unit (SRS)			[1]	1997
3. Waste Receiving and Process. Plant, Module II-Contaminated Debris (Hanford)	293	13,701	1,500	1999
4. Decontam. and-Waste Trtmnt Fac.-Cyanide Destruction (LLNL)	0.201	0.233	[1]	1999
5. TAN Portable Water Treatment Unit (INEL)[3]	0	103	[1]	[2]

[1] Not determined.
[2] Currently available.
[3] Note: This unit will be upgraded for treatment of mixed wastes.

Vitrification technologies	Generation rate all types m^3/yr	May 8, 1992 inventory all types m^3/yr	Total planned capacity m^3/yr	Date available
1. Waste Im-mobilization Facility (INEL)	3,646	60,875	(1)	2014

(1) Not determined.

DOE then compared mixed waste treatment needs and capacity on a nationwide basis to demonstrate sufficient capacity to manage the nationwide universe of DOE's mixed wastes at a number of treatment facilities. DOE sorted waste generation and storage information and treatment facility information based on technology, and performed a separate demonstration for each technology. The comparison analyzed the types and quantities of wastes requiring treatment capacity, the capacity provided by existing facilities, the projected capacity to be provided by planned facilities, and the limitations of the existing and planned capacity.

DOE indicated that a major factor that was considered in its analysis of treatment needs and capacity was the effect on available treatment capability of the management requirements of mixed waste to which the case-by-case expansion was not applicable. Although the type of management requirements for non-CBC-applicable mixed waste are substantially equivalent, for some of the technology-specific analyses, the capacity needed to manage non-CBC-applicable mixed waste in accordance with LDR treatment standards, was far in excess of the capacity needed for CBC-applicable mixed waste. Therefore, DOE concluded that these two groups of mixed wastes would compete with each other for available treatment capacity, and, as a result, factored non-CBC-applicable mixed waste into its analyses.

DOE analyzed commercial treatment capacity, DOE facility storage capacity, efforts to enter into binding contractual commitments, factors beyond DOE's control, and the use of surface impoundments or landfills. These factors as well as those discussed in this section are evaluated in section II.C., "Demonstrations Under 40 CFR 268.5(a)".

B. Timing of Treatment Capacity Availability

According to DOE's application, much of the treatment or protective disposal capacity required for its mixed wastes will not become available within the maximum two years for which DOE may obtain an extension of the LDR Third Third effective date. EPA is satisfied that it will not, in fact, be feasible for DOE to obtain all such capacity within the two-year period. The statute however, does not make it a condition of obtaining an extension that alternative capacity be provided within the period of the requested extension or any subsequent renewal, and there may be instances where, as here, it is not possible to obtain alternative capacity within that time frame.

If all other requirements for a case-by-case expansion are met (e.g., a binding contractual commitment to provide capacity, and an acceptable schedule for providing capacity), the fact that capacity will not come on line within two years is not a compelling reason to deny a case-by-case extension to an applicant. However, the statute does not permit extension of the LDR effective date for more than two years. Therefore, for those mixed wastes for which EPA is proposing to grant DOE the requested extension, it will be in effect for one year, with, at most, one additional one-year extension thereafter. This means that no later than May 8, 1994, the LDR requirements affected by any extension and potential renewal will become effective regardless of whether capacity is then available.

C. Demonstrations Under 40 CFR 268.5(a)

An applicant for a case-by-case extension of an LDR effective date is required to submit information showing that he can meet the seven demonstrations required under 40 CFR 268.5. The applicant must demonstrate the following:

- Demonstration 40 CFR 268.5(a)(1): "He has made a good-faith effort to locate and contract with treatment, recovery, or disposal facilities nationwide to manage his waste in accordance with the effective date of the applicable restriction established under Subpart C of this Part (May 8, 1992);"
- Demonstration 40 CFR 268.5(a)(2): "He has entered into a binding contractual commitment to construct or otherwise provide alternative treatment, recovery (e.g., recycling), or disposal capacity that meets the treatment standards specified in Subpart D or, where treatment standards have not been specified, such capacity is protective of human health and the environment;"
- Demonstration 40 CFR 268.5(a)(3): "Due to circumstances beyond the applicant's control, such alternative capacity cannot reasonably be made available by the applicable effective date. This demonstration may include a showing that the technical and practical difficulties associated with providing the alternative capacity will result in the capacity not being available by the applicable effective date;"
- Demonstration 40 CFR 268.5(a)(4): "The capacity being constructed or otherwise provided by the applicant will be sufficient to manage the entire quantity of waste that is the subject of the application;"
- Demonstration 40 CFR 268.5(a)(5): "He provides a detailed scheduled for obtaining required operating and construction permits or an outline of how and when alternative capacity will be available;"
- Demonstration 40 CFR 268.5(a)(6): "He has arranged for adequate capacity to manage his waste during an extension and has documented in the application the location of all sites at which the waste will be managed; and"
- Demonstration 40 CFR 268.5(a)(7): "Any waste managed in a surface impoundment or landfill during the extension period will meet the requirements of paragraph (h)(2) of this section."

EPA evaluated the demonstrations made by DOE pursuant to 40 CFR 268.5(a). EPA's findings on demonstrations (1)–(5) and (7) are applicable to all 31 facilities for which DOE is requesting an extension and are discussed below. EPA's findings for demonstration (6) are provided in the appendix of this notice for each facility separately.

1. Demonstration 40 CFR 268.5(a)(1)

He has made a good-faith effort to locate and contract with treatment, recovery, or disposal facilities nationwide to manage his waste in accordance with the effective date of the applicable restriction established under Subpart C of this Part (May 8, 1992).

In evaluating this demonstration, EPA considered whether DOE had made an exhaustive, systematic effort to locate, contact, and evaluate all facilities with the potential for treatment, recovery, or protective disposal. The applicant's search for potential off-site capacity must reveal that no practical

alternatives exist for treating the wastes to meet the LDR treatment standards by the effective date. This means that the applicant could not find any facilities which are currently eligible to treat the specific wastes or to manage the volume of wastes requiring treatment.

DOE conducted a search for potentially eligible commercial facilities, and then contacted those facilities identified as potentially eligible to gather additional information on each facility's qualifications and capabilities. DOE then evaluated the information to determine whether the facilities could actually provide treatment capacity for DOE CBC-applicable mixed waste. The results of DOE's research revealed inadequate commercial capacity for DOE's mixed wastes covered by this application. In addition, the application addresses the availability of the treatment capacity within DOE facilities.

DOE began its effort to identify, locate, and contract potentially eligible facilities nationwide by compiling information on such facilities from three source documents.

The first document was Commercial Treatment, Storage, and Disposal Vendors: A Handbook of Hazardous Waste Management Services, April 1986 (Pub.# DOE/HWP–13). This document was compiled by the DOE National Hazardous Waste Remedial Actions Program. The handbook contains detailed information on 686 facilities within the United States and Puerto Rico that can handle RCRA-regulated hazardous wastes. The handbook also identifies those vendors used by DOE contractors in the past to treat, store, and dispose of various waste materials.

In addition to the handbook, DOE utilized the March/April 1990 issue of The Hazardous Waste Consultant, a hazardous waste management trade publication. This issue presented a detailed overview and survey of facilities around the nation and was used to provide additional updated information to supplement information provided in DOE's 1986 handbook.

A third source used by DOE for identifying potential commercial capacity was a DOE document entitled Rocky Flats Plant Treatment Plan, completed in August 1990. The Plan, developed in accordance with the terms of a Federal Facilities Compliance Agreement (FFCA) between the State of Colorado, EPA, and DOE, indicated that several commercial facilities appeared to have the capacity to treat certain mixed waste streams or were planning to develop such capacity. Further assessment of these facilities was conducted by DOE to determine the viability of this potential capacity.

In the effort to identify those facilities that might provide viable mixed waste capacity, DOE implemented a two-tiered screening process intended to eliminate all facilities that were not qualified to accept DOE's mixed waste streams. The first screen used in this process eliminated all facilities that merely stored, transported, or acted as a broker for hazardous waste services. This determination was made based upon information provided on each firm's services as documented in the three previously mentioned source documents.

The second screen used by DOE identified those remaining facilities that were approved to handle mixed wastes. Since all of the mixed waste streams for which DOE is seeking an extension in this application have both RCRA-hazardous and radioactive components, only those facilities approved for management of both RCRA-regulated and Atomic Energy Act (AEA)-regulated waste streams were considered. Additional review of each facility's ability to handle specific types of wastes, conditions regarding receipt of off-site wastes, permit restrictions, and other limitations was conducted by DOE and resulted in the development of the "short list" of 31 commercial facilities that appeared to be capable of handling both hazardous and radioactive materials.

DOE conducted a survey of these 31 facilities. A DOE letter requested additional information on the types of wastes handled at each facility, the technologies involved, the treatment capacity and availability, and whether planned or near-future mixed waste capacity would or might be available.

The survey showed that only three facilities had capability or capacity to treat mixed wastes. Positive responses indicating mixed waste treatment capability were received from the following three facilities: Quadrex Environmental Company, Inc. (Quadrex) of Gainesville, Florida; NSSI/Sources and Services, Inc. (NSSI) of Houston, Texas; and Diversified Scientific Services, Inc. (DSSI) of Kingston, Tennessee. DOE further evaluated each of these three facilities' qualifications and capabilities for accepting and providing LDR treatment of DOE mixed wastes.

DOE evaluated each of the three potentially viable facilities against five specific criteria. These primary criteria address each facility's capability to handle the specific LDR mixed waste streams generated by DOE. The five primary evaluation criteria used by DOE for the commercial facilities were as follows:

(1) Whether the environmental and AEA permits held by the facility are adequate to treat DOE mixed waste;

(2) Whether the radioisotopes that the facility is allowed to accept and is capable of treating coincide with the radiological characteristics of DOE mixed waste streams;

(3) Whether the RCRA wastes that the facility is allowed to accept and is capable of treating coincide with the hazardous characteristics of DOE mixed waste streams;

(4) Whether the radionuclide concentrations and total quantities that the facility can manage coincide with the corresponding radionuclide levels of DOE mixed waste streams; and

(5) Whether the facility has any limitations on its waste management capacity that would prevent it from managing DOE mixed waste.

If a facility failed to meet any one of these criteria for a given mixed waste, DOE concluded that it could not rely on that facility to treat that mixed waste. Additionally, because of the risks associated with managing mixed waste, DOE evaluated each facility's demonstrated ability to manage mixed waste, including its status of compliance with applicable environmental and radiation standards.

Subsequent individual assessments of the three facilities based on the above criteria indicated that Quadrex Environmental Company, Inc. (Quadrex) of Gainesville, Florida is capable of managing a clearly defined segment of DOE's CBC-applicable mixed waste to meet the LDR treatment standards. More specifically, DOE can use Quadrex treatment capacity for certain CBC-applicable liquid scintillation mixed wastes generated after May 8, 1992, that are hazardous wastes solely because they exhibit the characteristic of ignitability and have radioactive contamination levels below the limits specified in Quadrex's radioactive materials license. These mixed wastes are in Treatability Group 1. Low level mixed wastes generated at Brookhaven National Laboratory (BNL) and Idaho National Engineering Laboratory (INEL) may also meet these limitations and thus be processed by Quadrex.

The non-CBC-applicable mixed waste that Quadrex is capable of managing consists of D001 waste scintillation materials placed into storage prior to May 8, 1992, as well as other waste scintillation materials containing F-listed solvents. As with the CBC-applicable scintillation materials, these mixed wastes will be required to meet

the standards of Quadrex's radioactive materials license. Non-CBC-applicable mixed waste scintillation materials generated or stored at 13 DOE facilities may meet these limitations, including the following facilities that are party to the DOE case-by-case application: Pantex Plant, Argonne National Laboratory—East, Brookhaven National Laboratory, Inhalation Toxicology Research Institute, Los Alamos National Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Mound Plant, Oak Ridge National Laboratory, Sandia National Laboratory—Albuquerque, and Savannah River Site.

DOE has concluded that the extent to which it ultimately will utilize Quadrex will be determined by the integration of Quadrex treatment capacity with DOE's own existing and planned incineration capacity, the radioactive characteristics of DOE's liquid scintillation mixed wastes, and continued availability of Quadrex treatment capacity. Furthermore, after May 8, 1992, EPA anticipates that this treatment capacity will be in demand from non-DOE facilities that, unlike the DOE facilities, may have no other planned treatment capacity. Since Quadrex has capacity to treat some, but not all mixed waste in Treatability Group No. 1, EPA expects DOE to use such capacity as may be reasonably made available to it.

Regarding NSSI/Sources and Services, Inc. (NSSI) of Houston, Texas, although the company is permitted and licensed to manage a wide variety of mixed wastes, DOE has expressed several concerns about its capacity. Previously contracted mixed waste treatment has not been completed and may not be completed for at least one mixed waste. DOE has issued contracts to NSSI to provide mixed waste treatment at three DOE sites (Feed Materials Production Center, Inhalation Toxicology Research Institute, and Pantex Plant). Therefore, DOE believes it is presently using NSSI capacity to the fullest extent possible and will only be able to make a determination on the future use of the facility once on-line treatment processes are established and existing waste management issues are resolved. Once those issues are resolved, DOE has stated it will reevaluate NSSI's mixed waste treatment capacity.

Regarding the Diversified Scientific Services, Inc. (DSSI) of Kingston, Tennessee, facility's capability to treat DOE mixed waste, DOE's evaluation concluded that DSSI currently is not capable or providing mixed waste treatment capacity. DSSI is likely to be able to provide mixed waste treatment capacity in the future, but this is essentially the same capacity that is currently available from Quadrex. The extent to which DOE can use DSSI's projected future mixed waste treatment capacity to manage CBC-applicable mixed waste (or non-CBC-applicable mixed waste) will likely be determined by the same three factors that determine DOE's use of Quadrex. A fourth determining factor is DSSI's ability to bring its industrial boiler into operation.

Based on the results of its effort to locate and contract with commercial treatment facilities that could manage mixed waste, DOE has concluded that only limited commercial treatment capacity exists nationwide to manage its mixed waste. The existing capacity that was identified consisted of the capacity to treat D001 scintillation liquids.

A follow-up survey was conducted by DOE in late December 1991. No commercial facility with mixed waste treatment capacity, other than the ones previously discussed in the DOE application, has since been identified. Mixed waste treatment capacity at the three commercial facilities (Quadrex, NSSI, and DSSI) is unchanged since the case-by-case application was submitted in November 1991. DSSI has recently completed testing of a treatment process, but on-line mixed waste treatment capacity is not currently available. DOE has used treatment capacity at both Quadrex and NSSI for mixed waste and stated that it will continue to use such treatment capacity where available.

Although not required to do so by 40 CFR 268.5, DOE also discussed its waste minimization practices as a second part of its good-faith effort demonstration. DOE reported that it currently requires all of its facilities to implement a formal waste minimization program that contains goals for minimizing the volume and toxicity of all wastes, including mixed wastes, that are generated. The first generation of these programs was required to be in place by May 1990. The programs are required by section III of DOE Order 5400.1, General Environmental Protection Program. DOE states that it updates the programs every eighteen months.

In support of the waste minimization programs, DOE requires its facilities to develop and implement annual Waste Management Plans. These plans provide an annual baseline against which waste minimization opportunities and progress are identified. The updated plans include sections specifically addressing mixed wastes, including how they are generated, stored, treated, and disposed. The plans identify the facilities currently in use (or being planned or upgraded) and include process information, waste characteristics data, flowcharts, and information on regulatory issues. Mixed waste minimization activities are discussed in these plans, which are required by section IV of DOE Order 5820.2A, Radioactive Waste Management.

DOE also noted that its commitment to waste minimization is reaffirmed in its Environmental Restoration and Waste Management Five-Year Plan (DOE/S–0090P). This document, which describes DOE's strategy for cleaning up and bringing all DOE facilities into compliance with all applicable environmental laws and regulations, identifies waste minimization as a DOE priority and describes how DOE is integrating waste minimization into waste management activities.

In addition to undertaking efforts to locate commercial treatment capacity on a nationwide basis, DOE reviewed the extent to which capacity may be available within DOE facilities. DOE presently provides or is otherwise designing, planning, and constructing its own units/facilities to accommodate its CBC-applicable mixed waste, as required by 40 CFR 268.5(a)(4). As described in section II.A.2.c, DOE established nine required treatment technologies from its evaluation of the mixed wastes and the subsequently established treatability groups. The treatment facilities information shown in Table A–3 shows that DOE is undertaking steps to obtain DOE-owned treatment facilities. As the table shows, DOE has five treatment facilities that are currently available. Table A–3 also summarizes DOE mixed waste generation rates and projected storage inventories, projected completion dates of planned DOE treatment facilities, and the total capacities of those planned units.

In conclusion, EPA believes that DOE has conducted a systematic search to find commercial facilities qualified to treat its mixed wastes and only found very limited available capacity. DOE did contract with NSSI/Recovery Services, Inc. to treat appropriate mixed wastes from three of the facilities (Feed Materials Production Center, Pantex, and Inhalation Toxicology Research Institute) included in the application. As previously mentioned, after May 8, 1992, EPA anticipates that this treatment capacity will be in demand from non-DOE facilities that, unlike the DOE facilities, may have no other planned treatment capacity. Accordingly, the

demonstration that the required capacity is unavailable has been adequately made. However, EPA expects DOE to use such commercial treatment capacity as may be reasonably made available to it until the planned treatment units are brought on-line, taking into account the practicality of treating small volumes, competing demand from other generators, and other relevant considerations. To ensure compliance with the LDR case-by-case requirements for a good-faith effort, EPA will require DOE to use the commercially available mixed waste treatment capacity to manage the appropriate portion of its CBC-applicable mixed waste for the duration of the case-by-case extension, if granted.

In addition, DOE has provided relevant information on its efforts to develop, design, and construct its own facilities. DOE has five facilities that are currently available; the status of all facilities planned by DOE is summarized in Tables A–3 and C–1.

EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(1). It is conceivable, however, that new commercial facilities may be established. EPA believes that DOE should take all possible steps to obtain treatment capacity as soon as possible. Therefore to insure that any potential new capacity is not overlooked, EPA will require DOE to submit a plan for continuing to search for and utilize commercial treatment facilities. This plan is to be submitted to EPA within 30 days of the extension, if granted.

2. Demonstration 40 CFR 268.5(a)(2)

He has entered into a binding contractual commitment to construct or otherwise provide alternative treatment, recovery (e.g., recycling), or disposal capacity that meets the treatment standards specified in Subpart D or, where treatment standards have not been specified, such treatment capacity is protective of human health and the environment.

DOE's application raises novel, and somewhat complex, issues regarding this demonstration. These issues arise because of DOE's status as a Federal agency, the fact that DOE intends to provide much of its capacity through in-house management rather than by contracting out, the unusually long time that will be required to provide much of the capacity, and the unavoidable degree of present uncertainty as to the time, location, and manner in which the capacity will be provided.

EPA has not fully resolved these issues. Rather, EPA will identify here options as to general approaches that it is considering for addressing this requirement. EPA anticipates that in the near future it will issue for public comment a specific proposal addressing the contractual requirement in greater detail.

In its application, DOE stated that due to the nature of the Federal budget process, it cannot enter into binding multi-year commitments to construct adequate treatment capacity. DOE also stated that appropriations are established by the Congress on an annual basis. Multi-year construction projects are authorized and funded on a yearly basis, with no binding assurances that construction will be continued from year to year. DOE cited the Anti-Deficiency Act (31 U.S.C. 1341) which prohibits the obligation of Federal funds for which Congress has made no appropriation.

In lieu of a multi-year contract to construct capacity, DOE proposed to meet the statutory requirement by committing in the application that, consistent with Congressional limitations on future funding, it would take all necessary steps and use its best efforts to obtain timely funding to provide sufficient treatment capacity for the affected wastes (and other mixed wastes it generates or has generated), including, but not limited to, the submission of timely budget requests.

DOE also stated that it had prepared an Environmental Restoration and Waste Management Five-Year Plan (DOE/S–0090P) that identifies, integrates, and prioritizes environmental restoration and waste management activities at all DOE nuclear facilities and sites, provides a consistent basis for DOE to address environmental requirements, and develops and supports its budget requests. DOE stated that the Five-Year Plan will be made consistent with the commitments contained herein to provide adequate treatment capacity.

Further supporting its application, DOE provided planning documents called Activity Data Sheets for each of its planned and operational treatment facilities. In a letter to EPA dated February 18, 1992, DOE's Assistant Secretary for Environmental Restoration and Waste Management stated that the Activity Data Sheets are the mechanism DOE uses to prepare its budget requests to Congress and stated that these documents demonstrate that DOE has requested sufficient funding to obtain treatment capacity. Activity Data Sheets are prepared by DOE for each treatment facility and provide comprehensive project management and planning data, such as funding requirements for a six-year period, description and progress of projects, future planned activities to support the project based on funding projections, and milestones.

DOE also provided the OMB (Office of Managment and Budget) Passback Letter for the Fiscal Year (FY) 1993 Budget.[3] The letter provides the OMB passback, or approval, of the budget request of $5.312 billion for the DOE environmental restoration and waste management program for FY 1993 (i.e., October 1, 1992 to September 30, 1993). OMB states that a comprehensive interagency review was performed to ensure that budgetary resources provided in FY 1993 ($5.312 billion) would be adequate to allow DOE to meet all milestones and legal requirements included in compliance agreements, consent orders, and Federal and State statutes and regulations; and to fully implement all DOE orders related to environment, health, and safety. It is EPA's understanding that the agencies and the OMB believe that the approved budget is adequate.

As further evidence of commitments already made to develop treatment capacity for mixed waste, DOE provided copies of the Federal Facilities Compliance Agreements for Hanford, Rocky Flats Plant (RFP), and Savannah River Site (SRS) facilities.

Finally, DOE provided contractual and Congressional budget request documentation relating to the development, engineering, and construction of the treatment facilities; this information is available in the RCRA Docket.

In evaluating the information submitted by DOE to support this demonstration, EPA first considered the Federal contracting process and the Anti-Deficiency Act. EPA recognizes that Federal agencies have contracting constraints which the private sector does not. It is possible, however, and indeed common for Federal agencies to commit to multi-year contracts and projects subject to the availability of funds. Such contracts are generally accepted as fully equivalent to private sector contracts, and EPA interprets the term "binding contractual commitment" to include a contract of this type. Therefore, the Anti-Deficiency Act does not preclude DOE as a general matter from meeting the contractual requirement. (Moreover, the consequence of DOE's interpretation might be simply to bar any Federal agency from obtaining a case-by-case extension, rather than to justify waiver of the requirements as DOE assumed. EPA believes that such an approach

[3] OMB Passback for Fiscal Year 1993, Robert E. Grady to James D. Watkins, December 23, 1992.

would be too restrictive and unfairly burden Federal agencies.)

EPA is therefore considering, and is seeking comment on, other approaches for applying the binding contractual commitment requirement to DOE to resolve the concerns about the approach taken in DOE's application.

To the extent that DOE is utilizing contracts with private contractors to construct treatment capacity, such contracts will meet the requirement. However, in many cases such contracts may not be present for a number of reasons. First, DOE is managing, or plans to manage, much of the construction within the agency. Second, DOE's application indicates plans to provide capacity by constructing a variety of treatment facilities over a period of up to 22 years. While plans for the immediate future are relatively concrete, there is considerable uncertainty as to whether the specific facilities indicated in the application for later years will be built in the precise form or location described. In addition, while DOE can identify the technology it intends to use for most of the waste streams, in many cases, details of the technology must still be worked out. Because of the length of time and the amount of research and development involved before facilities will actually be constructed, it is likely to be impractical for DOE to have a construction contract in hand for such facilities. Finally, DOE has identified a number of facilities at which construction has already been completed, but are not yet in operation for a variety of reasons.

EPA is considering, and seeking comment on at this time, a number of options for addressing the contractual requirement. EPA believes these options to be consistent with the purpose underlying the contractual requirement. The requirement of a binding contractual commitment serves to give EPA confidence that capacity will in fact be provided as represented in the application. The existence of a contract shows that the applicant has made a concrete commitment to obtain capacity within a specified time frame, which cannot lightly be rescinded. In addition, it may serve to show that the applicant has access to whatever resources or expertise are needed to construct or provide capacity. Thus, where the totality of the evidence supports a showing that DOE is managing construction in-house, and is in effect acting as its own general contractor, EPA believes that the requirement has been met. EPA considers this a reasonable interpretation of its own regulation, and does not believe that Congress intended to require contracts with third parties where administrative or technical reasons made in-house management more suitable. The factors that EPA would look at to determine whether DOE (or any other applicant) met the requirement in this fashion would include, among other things: whether purchase orders or subcontracts have been entered into, or are being negotiated, for equipment and services related to the project; whether funding has been approved for the project; and whether a detailed design or facility plan has been developed. In general, a facility that is still in the early planning stage, for which the specific design and location are still undetermined, would have a difficult time in satisfying this requirement.

Second, EPA will consider compliance agreements negotiated with regulatory agencies (in this case, EPA) to be binding contractual commitments for purposes of this requirement, if they contain commitments to provide certain capacity by a stated date. While not contracts will construction firms, such agreements are contractual in nature, commit DOE to develop treatment capacity for specified waste streams, and are binding as enforcement documents. Terms of such agreements are also enforceable through citizen suits under Section 7002 of RCRA.

EPA anticipates that by taking into account compliance agreements, and instances in which DOE is constructing or has constructed capacity in-house, the contractual requirement will be met for a significant number of the waste streams addressed by the application. EPA will provide details on the waste streams for which an extension may be possible in a subsequent notice proposing the Agency's final position with regard to the binding contractual commitment. EPA solicits comment at this time on the general approaches described above.

Even after such approaches have been considered, however, it is possible that a significant group of waste streams in the application will not have been addressed. To address these waste streams, EPA is considering a third approach involving an Interagency Agreement (IAG) between EPA and DOE. EPA anticipates that such an IAG would contain a commitment by DOE to provide, by a specified date, all of the capacity required for treatment of the waste streams addressed by this application that are not addressed by compliance agreements or where DOE is constructing capacity in-house. The details of an IAG are not finally determined, but separate deadlines may be established for the various forms of treatment technology (e.g., incineration, stabilization, etc.). An IAG might or might not contain more detailed specification of the manner in which capacity was to be provided (e.g., specifying facilities to be constructed in the future), and might or might not contain interim milestones for progress toward the ultimate deadline.

Finally, in the case of facilities that have already been constructed but are not yet in operation, the requirement of a contractual commitment may be addressed in a variety of ways. Of course, if a facility has already been constructed, that would be very strong evidence of commitment to treat waste. EPA has previously indicated that where it has already been proposed that a facility be granted a no-migration variance under 40 CFR 268.6, and the facility is already in existence, so that the only remaining contingency is the final regulatory action rendering the facility operable as a disposal site for wastes subject to LDRs, no further contractual commitment will be required. That same principle will apply here. EPA believes that a contractual commitment requirement is no longer appropriate where a facility has been constructed and the only contingency preventing it from becoming operational is issuance of a permit by a regulatory authority, as there is nothing within the applicant's control that he could contract to do. (EPA notes also that the applicant would have to provide a schedule for obtaining such permits to obtain the extension under 40 CFR 268.5(a)(5), and would have to comply with it in good faith to maintain the extension under 40 CFR 268.5(g).)

Where the remaining impediments to operation are technical rather than regulatory, a contract may or may not be required depending on the nature of the technical impediments. In such cases, the requirement could be met by demonstrating a contract with a third party to perform the remaining technical work, or by showing that such work is being done in-house in the same manner described above.

No final decision will be made on DOE's case-by-case application until comments have been received in response to the subsequent Notice addressing the contractual requirement.

3. Demonstration 40 CFR 268.5(a)(3)

Due to circumstances beyond the applicant's control, such alternative capacity cannot reasonably be made available by the applicable effective date. This demonstration may include a showing that the technical and practical difficulties associated with

providing the alternative capacity will result in the capacity not being available by the applicable effective date.

In its application, DOE identified factors which it believes to be beyond its control and which have prevented it from providing compliant capacity by the LDR effective date for the CBC-applicable mixed waste (May 8, 1992). The DOE schedules, in fact, show that most capacity will not be available until well beyond the extension period, including any additional extension, if granted.

a. Technological uncertainty. DOE stated that only limited technologies for treating mixed wastes currently exist. In particular, DOE stated that EPA's proposed treatment standards cannot be directly applied to mixed wastes without consideration of the radioactive component of the wastes. Since the radioactive component of mixed waste usually presents a risk to human health and the environment comparable to or greater than the risk associated with the nonradioactive component, any unit to be used for mixed waste treatment must be designed to control the radioactive component of the mixed wastes. Thus they argue that processes designed for nonradioactive hazardous waste treatment cannot be used for mixed wastes without redesigning them to control for radioactive contamination, ensure that the radionuclides are immobilized in the treated wastes, and provide for radiation shielding. Because of these factors, DOE states that the design, construction, and start-up of large-scale mixed waste treatment units is delayed by the amount of time needed for research and development to devise contamination control, radionuclide immobilization, and radiation shielding technologies. DOE concludes that this limitation has prevented it from providing treatment capacity by the LDR effective date. To address this situation, DOE stated that it has been undertaking extensive research and development efforts for mixed waste treatment facilities and technologies for many years. DOE discussed these efforts in its January 1990 National Report on Prohibited Wastes and Treatment Options. More current details are provided in section 2.4 of the DOE Five-Year Plan (both of these reports are available in the Docket).

EPA agrees with DOE that the need to develop technologies and safe processes to handle mixed wastes is a significant contributing factor to DOE's lack of alternate capacity. Both EPA and the U.S. Nuclear Regulatory Commission recognize the concerns and additional safety issues which arise from the handling of mixed waste.

In addition, the Office of Technology Assessment (OTA) of the U.S. Congress discussed the lack of treatment, off-site storage, and disposal facilities for mixed wastes in its November 1989 report to Congress entitled Partnerships Under Pressure: Managing Commercial Low Level Radioactive Waste. OTA's study on managing low level wastes, including mixed low level waste, was undertaken at the request of the Senate Committee on Environment and Public Works. The Committee asked OTA to analyze States' progress in developing disposal facilities for these wastes and to evaluate any problems in managing mixed low level wastes. Although the OTA study focussed on states' mixed low level waste programs, OTA studied the availability of commercial treatment and disposal capacity for mixed waste; thus OTA's findings and conclusions are relevant to DOE and to EPA's evaluation of the DOE application.

In summary, OTA found that: "Although mixed LLW comprises less than 10 percent of all LLW, it has been identified by States as their major concern in managing LLW. No disposal facility for mixed LLW has been available since 1985. Also, no off-site storage or treatment facility is available * * * the absence of treatment capacity, the absence of appropriate treatment technologies, storage prohibitions that cannot be met, and the absence of disposal capacity are serious problems that need to be addressed." (As discussed previously under Demonstration No. 1, DOE has subsequently found some limited commercial mixed waste treatment capability.)

OTA further observed that the commercial sector was reluctant to develop facilities for five main reasons: "First is lack of data. Without a national survey on mixed low level waste volumes and types, industry will have difficulty meeting market needs. Second is the possiblity that (States') compacts could attempt to restrict the import and export of waste for treatment, thereby limiting waste volumes and making the development of a treatment facility economically unviable. Third is the long licensing period expected for receiving a permit to operate such a facility. Fourth is the reluctance of facility operators to contaminate the internal mechanisms of their machinery with radioactivity. Fifth, is the opposition of some public interest groups to siting such facilities."

EPA agrees with these conclusions and believes that they are contributing factors to DOE's current lack of alternate capacity. Subsequent to the OTA studies, EPA found that sufficient treatment capacity was still lacking. In publishing the Third Third final rule on June 1, 1990, EPA granted a two-year national capacity variance under RCRA section 3004(h)(2) noting that: "(EPA) bases the national variance for these wastes upon a determination that there is inadequate treatment capacity available for these wastes" (55 FR 22532). In making this determination, EPA used data supplied by DOE, individual states, and other sources (55 FR 22632, 22644).

EPA continued to recognize the problem of shortage of treatment capacity when it issued its "Policy on Enforcement of RCRA section 3004(j) Storage Prohibition at Facilities Generating Mixed Radioactive/Hazardous Wastes"; August 29, 1991 (56 FR 42732). In issuing this policy, EPA again recognized that: "The shortage of treatment capacity for mixed wastes generated by DOE facilities is well documented, particularly in the data submitted to EPA to support the May 8, 1990 national capacity variance, and in the January 1990 National Report on Prohibited Wastes and Treatment Options prepared by DOE as part of the Rocky Flats Federal Facilities Compliance Agreement (FFCA)".

This National Report was prepared by DOE in response to the September 19, 1989, Rocky Flats Federal Facilities Compliance Agreement (FFCA) between DOE, EPA, and the State of Colorado Department of Health. As part of the FFCA, DOE was required to prepare and submit a report identifying each DOE facility managing mixed waste subject to the LDR, and providing descriptions and quantities of the mixed waste, generation rates, treatment technologies needed, and the availability of treatment capacity. All DOE sites provided the required data. The report was issued on January 16, 1990. DOE reported that 30 sites generated or stored mixed waste, with a total generation rate of approximately 97,000 m^3/yr and 352,000 m^3 in storage. DOE determined that it had an annual incineration capacity of only about 1,200 m^3 and other treatment capacity of 15,000 m^3/yr. In this report, DOE also noted the need for continued investigation and development of treatment technologies.

Further, in October, 1991, DOE, the Department of Defense, and EPA proposed legislation that recognized the continued shortage of treatment capacity for mixed waste and provided additional time for treatment technologies and capacity to be developed. (Congression Record. S.

14884, 14892, October 17, 1991). This legislation is still pending in Congress.

b. Backlog of other wastes. DOE also cited other reasons why it believes that circumstances beyond its control prevent it from providing compliant capacity by the LDR effective date for the Third Third CBC-applicable mixed wastes. DOE states that the existence of a large backlog of existing mixed wastes requiring proper management, including treatment to LDR standards, is a major factor affecting how DOE manages its CBC-applicable mixed waste.

The case-be-case extension DOE is seeking through this application will only apply to a portion of the mixed wastes under DOE control. In addition to these CBC-applicable mixed wastes, DOE manages a larger quantity of other mixed wastes. DOE states that this previously restricted mixed waste is awaiting proper treatment and, until that treatment can be provided, it is stored in DOE's RCRA storage facilities. The mixed wastes covered by this application and the mixed waste which is not eligible for a case-by-case extension will, however, be competing for the limited treatment capacity that DOE currently is able to provide. The non-CBC-applicable existing mixed waste consists of the following three groups of mixed wastes:

- Third Third mixed wastes generated prior to May 8, 1992, that are not also Solvents and Dioxins or California List mixed wastes, and will not need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition.
- Solvents and Dioxings and California List mixed wastes generated prior to the respective November 7, 1986, and July 8, 1987, LDR effective dates for those wastes (including those that also contain a Third Third mixed waste component);
- Solvents and Dioxins and California List mixed wastes generated on or after the respective November 7, 1986, and July 8, 1987, LDR effective dates for those wastes (including those that also contain a Third Third mixed waste component).

Mixed wastes which are subject to the LDRs but placed in storage before the effective date are not subject to the storage prohibition of section 3004(j) of RCRA. The first two groups of mixed wastes listed above are not subject to the LDR storage prohibition as long as they are not removed from storage or otherwise actively managed while in storage. However, those mixed wastes, as well as the third group of mixed wastes and the mixed wastes covered by this application, are required to satisfy the applicable LDR treatment standard requirements prior to land disposal. DOE states that in order to best use its existing limited mixed waste treatment capacity to provide adequate treatment for all these wastes, it must prioritize all of its mixed wastes, by comparing its treatment capacities to its treatment needs. In prioritizing wastes for treatment, DOE states it generally considers four major criteria, in the following order:

(1) Imminent health and safety and environmental release concerns of various wastes in storage;

(2) Compliance with formal agreements between various DOE facilities and regulatory agencies;

(3) Compliance with RCRA or TSCA requirements, other than the LDR storage prohibition; and

(4) Compliance with the LDR storage prohibition.

After the four major criteria are evaluated by DOE, it considers nonregulatory criteria associated with risk reduction. These criteria are similar to the first criterion except that they focus on long-term rather than imminent risks. For example, DOE believes that liquid mixed waste storage has, in general, an inherently higher risk than solid mixed waste storage. Therefore, in situations where certain solid and liquid mixed wastes are prioritized using DOE's criteria, liquid mixed wastes will generally be assigned available treatment capacity before solid mixed wastes. DOE states that its scheme for prioritizing these wastes in these situations is intended to be consistent with HSWA, placing Solvents and Dioxins and California List mixed wastes ahead of the Third Third mixed wastes. This consistency is further amplified for newly generated Third Third mixed wastes by the results of DOE's waste minimization and reduction programs, under which more recently generated mixed wastes will generally be less hazardous than those generated in the past.

EPA concludes that the priority to be assigned to mixed waste streams is not beyond DOE's control. However, EPA agrees that the available treatment and disposal capacity is insufficient to address both CBC-applicable and other mixed wastes in the near term. Therefore, some prioritization is necessary and it is reasonable for DOE to give higher priority to some non-CBC applicable mixed waste. Since DOE's prioritization will necessarily result in many CBC-applicable mixed wastes remaining untreated, the availability of some treatment capacity does not negate a finding that compliance with the Third Third LDR is beyond DOE's control.

DOE further states in its application that limitations on funding also have restricted DOE's ability to provide required treatment for mixed wastes. In section 2.3.4 of the application, DOE presented arguments which it feels constrained its ability to fund sufficient waste treatment projects. DOE did not provide sufficient evidence to allow EPA to evaluate this factor.

DOE also states that during the early 1980's, there was considerable uncertainty regarding the applicability of RCRA to wastes containing radionuclides. This historic lack of clarity was recognized by EPA at the time it published the rule that mixed waste was subject to RCRA (51 FR 24504, July 3, 1986). While those early uncertainties may have been a factor affecting DOE's present ability to provide sufficient compliant capacity, EPA does not view them as a primary consideration in assessing whether the lack of capacity was beyond DOE's control at this time. Sufficient time has passed since 1986 so that EPA is not persuaded by DOE's argument that policy constraints appear to be the principal factor accounting for the lack of current capacity. EPA concedes that a more recent complicating factor for these wastes is the fact that treatment standards for the Third Third mixed wastes were not promulgated until 1990. DOE's application does not indicate whether the development of capacity was affected by the timing of EPA's promulgation of these waste standards.

In its application, DOE went on to provide an evaluation of the impact of the NEPA process and RCRA permitting process on the development and construction of treatment units. DOE believes that the time needed to meet these regulatory requirements is a factor beyond DOE's control that prevents DOE from providing compliant treatment capacity by the effective date for CBC-applicable mixed waste.

EPA recognizes that many steps in these processes are beyond an applicants control. However, the application primarily reviewed the effect of such delays on future development of treatment units; this does not affect the past inability to develop treatment capacity. EPA therefore did not evaluate this as a factor in its determination in Demonstration 40 CFR 268.5(a)(3).

In summary, DOE has discussed factors which it believes were beyond its control and which it states precluded it from reasonably obtaining alternative capacity by the LDR effective date.

EPA recognizes and agrees that adequate treatment capacity is indeed lacking and that this historical situation is well documented; EPA has cited references to this effect. EPA also agrees that past technology deficits have contributed in part to today's lack of capacity. Further aggravating DOE's situation is its backlog of non-CBC-applicable mixed waste. On this basis, EPA believes sufficient circumstances were beyond DOE's control that it has met the requirements of Demonstration 40 CFR 268.5(a)(3).

4. Demonstration 40 CFR 268.5(a)(4)

The capacity being constructed or otherwise provided by the applicant will be sufficient to manage the entire quantity of waste that is the subject of the application.

For the low level mixed wastes and high level mixed wastes, the following treatment and recovery technologies were identified by DOE as being required to meet the LDR standards for those wastes:

- Incineration.
- Stabilization.
- Oxidation via Thermal or Water Reaction.
- Lead Decontamination and Recycling or Microencapsulation.
- Cyanide Destruction.
- Inorganic Debris Treatment.
- Ion Exchange.
- Vitrification.

DOE plans to treat the wastes within its 17 low level mixed waste treatability groups and two high level mixed wastes with these technologies. Some are required treatment standard technologies, while others are the best demonstrated available technology (BDAT) to meet a concentration-based treatment standard for each treatability group. For the Third Third mixed wastes, a treatment standard is based on the performance of the best demonstrated available technology (BDAT) to treat the waste (55 FR 22525, 51 FR 40567). EPA may establish treatment standards either as specific technologies or as performance standards based on the performance of BDAT. Table A–2 shows the treatment standards and treatment technologies for each of the treatability groups. Some mixed wastes require, of course, more than one treatment technology.

Table A–3 lists all treatment units together with their expected location, capacity requirements, and planned capacities.

DOE has provided the following descriptions of the treatment technologies.

a. *Incineration.* Incineration will be used to meet the LDR treatment standards for CBC-applicable low level mixed wastes in Treatability Groups 1 through 7 and 17. It is the required technology-based treatment standard for Treatability Groups 1, 3, and 7; for Treatability Group 1, post-incineration stabilization is also included if necessary to immobilize TC metals.

Incineration is the specified BDAT to meet concentration-based treatment standards for Treatability Groups 2, 4, 5, and 6; for Treatabilty Groups 4 and 6, post-incineration stabilization is also included in the BDAT to meet the concentration-based treatment standards for TC metals.

Incineration will also be used to meet the concentration based treatment standard for some of the wastes in Treatability Group 13, Low Level Mixed Waste TC Metal Inorganic Solid Debris, in accordance with treatment standards proposed by EPA (57 FR 985; 57 FR 1037). Since incineration will only be used for an undetermined portion of the wastes in this treatability group, DOE did not consider them further in the analysis of incineration capacity needs.

DOE requires incineration to treat CBC-applicable low level mixed waste, non-CBC-applicable low level mixed waste, and radioactively contaminated PCB wastes regulated under the Toxic Substances Control Act (TSCA). The CBC-applicable low level mixed waste requiring incineration capacity include those mixed wastes in Treatability Groups 1 through 7 and 17 that will be generated after the May 8, 1992, LDR effective date. This category has a total generation rate of 322 m^3/yr, and a projected May 8, 1992, stored inventory of 1,553 m^3.

The quantities of non-CBC-applicable low level mixed waste requiring incineration include the following wastes:

- The May 8, 1992 stored inventory of low level mixed wastes that are currently generated and will be placed in storage prior to May 8, 1992 plus those that are no longer generated.
- The stored inventory and current generation rate of non-CBC-applicable low level mixed wastes consisting of solvents, dioxins, California List, and TCLP organics.

These non CBC-applicable mixed wastes have a total generation rate of 1,199 m^3/yr and a projected May 8, 1992, stored inventory of 31,170 m^3.

A third category of mixed waste that requires incineration capacity is readioactively contaminated PCB wastes not regulated under RCRA. These wastes are regulated under the TSCA requirements and are subject to TSCA storage limitations. Under TSCA requirements, these wastes are not allowed to be stored for longer than one year. DOE is currently storing a considerable inventory of these wastes requiring incineration. At DOE's only operating mixed waste incinerator, approximately 72% of the 24 million pounds of mixed wastes in storage and scheduled to be incinerated is subject to the TSCA storage regulations. Using an average specific gravity of 1.0 for these wastes, they are being generated at a rate of 137 m^3/yr and approximately 7,687 m^3 are in storage.

The overall total generation rate of the three types of mixed wastes requiring incineration is projected to be 1,658 m^3/yr and DOE calculates the total May 8, 1992, mixed waste stored inventory requiring incineration to be 40,410 m^3.

To seek to demonstrate sufficient capacity to manage the mixed wates in Treatability Groups 1 through 7 and 17, DOE is currently operating one mixed waste incinerator and is planning to construct and operate an additional six mixed waste incinerators.

The existing incineration unit has the capability to treat both liquids and solids and has a capacity of approximately 1,435 m^3/yr. Since the incineration capacity needs for DOE include a stored inventory of approximately 40,410 m^3, DOE's existing incerator would require many years to treat the stored inventory of wastes. Using the existing incineration capacity to also manage the quantity of wastes resulting from the current generation rate of 1,658 m^3/yr would result in an even longer period to incinerate the inventory of stored wastes. However, incineration capacity increases provided by planned units will act to reduce the time necessary to treat the backlog and currently generated wastes.

The total capacity of six of the seven operating and planned incinerators is approximately 3,780 m^3/yr. There is one planned incinerator at Idaho National Engineering Laboratory (INEL) for which DOE has not determined the capacity.

DOE's total incineration capacity will increase in steps between 1993 and 2004 as additional units commence operation. The total capacity available by 2004 is projected by DOE to be in excess of 3,780 m^3/yr. This capacity is greater than the projected generation rate for incinerable mixed wastes. Thus, DOE plans to use this capacity to gradually reduce the stored inventory of mixed wastes requiring incineration and to manage all CBC-applicable mixed waste requiring incineration. Based on DOE's analysis, EPA believes the combined capacity of the existing and planned incineration units will be sufficient (even without the INEL capacity) to

manage the CBC-applicable mixed waste requiring incineration.

b. Stabilization. Stabilization will be used to meet LDR concentration-based treatment standards for the CBC-applicable low level mixed wastes in Treatability Groups 1, 4, 6, 7, 8, 9, 10, and 14. For Treatability Groups 1, 4, 6, and 7, pre-stabilization incineration is also included in the BDAT to meet the concentration-based treatment standard. The pre-stabilization incineration capacity needs for these treatability groups have been included in the previous section. For Treatability Groups 9 and 10, pre-stabilization cyanide destruction is also required as part of the treatment standard.

In addition, DOE plans to use stabilization to meet the concentration-based treatment standard for some wastes in Treatability Group 13, Low Level Mixed Waste TC Metal Inorganic Solid Debris. DOE expects to use stabilization only for an undetermined portion of the wastes in the treatability group, and has not considered it further in its stabilization capacity needs.

Stabilization capacity is needed by DOE to treat three groups of wastes: CBC-applicable low level mixed waste, non-CBC-applicable low level mixed waste, and non-CBC-applicable mixed waste classified as Double-Shell Tank (DST) mixed waste and low level fractions of high level mixed waste and DST mixed waste.

The CBC-applicable low level mixed waste requiring stabilization capacity include those mixed wastes in the previously identified treatability groups that will be generated after the May 8, 1992, LDR effective date. However, mixed wastes in four of the treatability groups are to be stabilized only after they are incinerated. In the stabilization capacity needs analysis, the volumes of these mixed wastes were not considered further by DOE for three reasons:

(i) The prestabilization incineration of these mixed wastes results in a large, but undetermined, volume reduction factor for the wastes, thus, representative volumes of the incineration residues are not available.

(ii) The incineration ash from DOE's operating incinerator is included in Treatability Group 8, which requires direct stabilization and is already counted in the analysis.

(iii) Some of the residues resulting from incineration of mixed wastes in Treatability Group 1 are expected to be nonhazardous and subsequently will not require stabilization.

Based on these factors and DOE's further analysis, EPA concurs that DOE will have sufficient stabilization capacity to address the residues generated from the incineration of wastes in Treatability Groups 1, 4, 6, and 7.

Treatability Groups 8, 9, 10, and 14 will either be stabilized directly or, in the case of Treatability Group 10, will not undergo significant volume reduction during pretreatment. Therefore the volumes associated with these four treatability groups are considered in this analysis of stabilization capacity needs.

The total stabilization capacity required for the CBC-applicable low level mixed waste in Treatability Groups 8, 9, 10, and 14 is projected to be approximately 7,627 m^3/yr. It should be noted that pondcrete, one major CBC-applicable mixed waste (5,200 m^3/yr) at RFP, is not projected to be generated after 1993.

The quantities of low level mixed waste requiring stabilization include the following wastes:

- The May 8, 1992, stored inventory (52,766 m^3) of CBC-applicable low level mixed wastes that are currently generated plus those that are no longer generated.
- The stored inventory (3,356 m^3) and current generation rate (74 m^3/yr) of non-CBC-applicable low level mixed wastes consisting of solvents, dioxins, California List, and TCLP organics.

The third group of mixed wastes requiring stabilization includes the quantities of non-CBC-applicable mixed waste classified as DST mixed waste and the low level fractions of high level mixed waste and DST mixed waste. Thirteen mixed wastes in the following five treatability groups will require stabilization:

- Alkaline high level waste liquids (low level fraction of one stream)
- Alkaline high level waste slurries (low level fractions of four streams)
- Hanford double-shell wastes—grout treatment (four streams)
- Hanford double-shell transuranic wastes (low level fractions of two streams)
- Hanford double-shell wastes with complexants (low level fractions of two streams)

Pretreatment technologies such as precipitation/phase separation and ion exchange will be used to remove and concentrate much of the radioactive component in some of these mixed wastes. After pretreatment, the low level fractions of these streams are to be stabilized in grout, and the fractions containing the concentrated radioactivity are to be vitrified. For one treatability group, the alkaline high level waste slurries, the volume of low level fraction to be stabilized (after phase separation pretreatment) is projected to be approximately 65% of the original waste volume. As of the May 8, 1992, LDR effective date, mixed wastes in this third category requiring stabilization have a combined generation rate of 19,270 m^3/yr and total stored inventory is projected to be 205,678 m^3.

Therefore, the overall total generation rate from combining the three categories of mixed wastes requiring stabilization is 26,971 m^3/yr. DOE calculates the combined stored inventory of these mixed wastes to be 261,800 m^3.

To seek to demonstrate sufficient capacity to manage the CBC-applicable mixed waste requiring stabilization, DOE is currently operating four mixed waste stabilization units and is planning to construct and operate an additional 13 mixed waste stabilization units. See Table A–3.

The combined treatment capacity of the four existing units is 41,189 m^3/yr. However, the largest of the existing units, Z-Area Saltstone at the Savannah River Site, is a dedicated unit for the low level fraction of a high level mixed waste. Therefore, only approximately 869 m^3/yr of actual existing capacity is available for low level mixed wastes (both CBC- and non-CBC-applicable). The capacity of the existing units (excluding the dedicated Z-Area Saltstone unit) is not sufficient to manage low level mixed wastes since it is less than the generation rate of the CBC-applicable low level mixed waste requiring stabilization (7,627 m^3/yr).

The total capacity of eight of the planned stabilization units is approximately 37,631 m^3/yr. In addition, there are five planned stabilization units for which the capacity has not yet been determined. The combined capacity of the existing and planned units totals approximately 38,500 m^3/yr for low level mixed wastes plus the capacity of five other planned units; in addition, DOE also has existing capacity of 40,320 m^3/yr to treat the low level fraction with a high level mixed waste. DOE expects to reach this capacity level by 2004, at which time the capacity of the stabilization units will substantially exceed the 21,771 m^3/yr projected generation rate of mixed wastes requiring stabilization (the 5,200 m^3/yr Rocky Flats Plant pondcrete mixed waste is not projected to be generated after 1993). The excess capacity available by this time will be able to gradually reduce the total stored inventory of mixed wastes requiring stabilization.

Based on DOE's analysis, EPA believes the combined capacity of the existing and planned stabilization units will be sufficient to manage the CBC-

applicable mixed waste requiring stabilization.

c. Oxidation. Oxidation (deactivation/oxidation) will be used to meet the LDR treatment standard for CBC-applicable low level mixed wastes in Treatability Group 11, Low level Mixed Waste Ignitable and/or Water Reactives. Deactivation is the required characteristic-based treatment standard for that treatability group. Various oxidation technologies, including thermal treatment and water reaction, may be used to meet the deactivation treatment standard for the wastes in this treatability group.

DOE projects the total generation rate of CBC-applicable low level mixed waste requiring deactivation/oxidation to be 6 m^3/yr. DOE has indicated that it generates no mixed wastes other than that which are CBC-applicable to the oxidation treatment technology. The total stored inventory is 36 m^3 and consists of only CBC-applicable low level mixed waste.

To seek to demonstrate sufficient capacity to manage the CBC-applicable mixed wastes in Treatability Group 11, DOE is planning to construct and operate three mixed waste deactivation units that will use various oxidation technologies. See Table A–3. The total capacity of the planned deactivation/oxidation units is approximately 159 m^3/yr.

The combined actual capacity of these units is likely to be less than 159 m^3/yr, however, since some of the units will operate with specific limitations. For example, the capacity of the planned deactivation unit at Los Alamos National Laboratory (LANL) is actually less than the projected 139 m^3/yr because most of that unit's planned capacity will be specifically designed for reactive pyrophoric uranium waste rather than the more general category of reactive metal mixed waste. In addition, the projected capacity of the Hanford Mixed Waste Treatment Facility represents the total capacity of the entire facility, which includes four units, only one of which performs deactivation. Another limitation is that the reactivity of the waste to be treated in these units affects the quantity that the units can treat. More reactive wastes require a greater treatment capacity than less reactive wastes, even if they have a much smaller volume. Therefore, the actual capacities of these units are a direct reflection of the degree of reactivity of the waste and are difficult to quantify with a high degree of confidence. DOE states, however, that sufficient deactivation capacity will be available by 1997 to manage DOE's CBC-applicable low level mixed waste requiring deactivation. EPA believes that DOE's planned capacity of 159 m^3/yr by 1997 even with the limitations noted (partly due to the relatively small amounts of wastes generated and in inventory) should be sufficient to meet its needs for oxidation treatment.

d. Lead decontamination and recycle/microencapsulation. Decontamination or microencapsulation will be used to manage 38 CBC-applicable low level mixed waste in Treatability Group 12, Low Level Mixed Waste Radioactive Lead Solids. Decontamination will be used to allow subsequent recycling of the nonradioactive lead so that it is no longer subject to mixed waste regulation. In cases where DOE does not decontaminate and recycle these mixed wastes, microencapsulation will be used to meet the technology-based LDR treatment standard.

The total generation rate of CBC-applicable low level mixed waste in Treatability Group 12 requiring decontamination and recycle/microencapsulation capacity is projected to be approximately 104 m^3/yr. Decontamination and recycle/microencapsulation capacity also will be required to manage 946 m^3 of CBC-applicable low level mixed waste in stored inventory. Less than 1 m^3/yr of non-CBC-applicable low level mixed waste is generated or stored which will require decontamination and recycle/microencapsulation capacity.

To seek to demonstrate sufficient capacity to manage the CBC-applicable mixed waste in Treatability Group 12, DOE is planning to construct and operate three mixed waste decontamination and recycle/microencapsulation units. DOE has included no existing units in its application.

As shown by Table A–3, the total annual capacity of two of the three planned decontamination and recycle/microencapsulation units is approximately 330 m^3/yr; the planned capacity for the third unit has not yet been determined by DOE. DOE has also stated that it will bring all treatment units on line by the first quarter of 1996 to provide the required capacity. This capacity is more than enough to treat the projected generation rate for these wastes and gradually reduce the stored inventory of mixed wastes requiring lead decontamination and recycle/microencapsulation. EPA believes, therefore, that DOE will provide sufficient treatment capacity for this treatability group.

e. Cyanide destruction. Cyanide destruction will be used primarily to meet the LDR treatment standard for CBC-applicable low level mixed waste in Treatability Group 10, Low Level Mixed Waste P & U Listed Inorganic Cyanide Nonwastewaters; some amount of cyanide destruction technology may be needed to pre-treat wastes in Treatability Group 9, Low Level Mixed Wastes F006, F007, F008, and F009 Nonwastewaters. However, since cyanide destruction will only be used for an undetermined portion of the wastes in this treatability group, DOE did not consider them further in the analysis.

Cyanide destruction is the required concentration-based treatment standard for that treatability group. Stabilization after cyanide destruction is the BDAT technology to meet the concentration-based standard for TC metals for mixed wastes in this treatability group.

The quantities of CBC-applicable and non-CBC-applicable mixed waste that will require cyanide destruction to meet the LDR treatment standards are extremely small. CBC-applicable low level mixed waste requiring cyanide destruction is generated at only one DOE site, Oak Ridge National Laboratory (ORNL), at a rate of 0.001 m^3/yr. Inventory in storage will be 0.003 m^3 on May 8, 1992. Non-CBC-applicable low level mixed waste requiring cyanide destruction is generated at Lawrence Berkeley Laboratory (LBL) at a rate of 0.020 m^3/yr. The inventory as of May 8, 1992 will be 0.230 m^3. Thus, the combined generation rate of mixed wastes requiring cyanide destruction is 0.021 m^3/yr and the DOE projected inventory to be stored by the May 8, 1992, LDR effective date is 0.233 m^3.

To seek to demonstrate sufficient capacity to manage the CBC-applicable mixed waste in Treatability Group 10, DOE currently is planning to construct and operate one cyanide destruction unit at Lawrence Livermore National Laboratory (LLNL). DOE has no existing cyanide destruction units. See Table A–3.

The total capacity of the planned cyanide destruction unit has not been determined at this time. However, DOE stated that the capacity to be provided by this planned unit will be sufficient to manage the CBC- and non-CBC-applicable quantities of mixed waste requiring cyanide destruction. The unit is scheduled to begin operation by 1997. EPA believes that DOE will be able to provide adequate treatment capacity partly based on the small amounts of wastes that are generated or in inventory and partly based on the availability of this type of technology.

f. *Inorganic debris treatment.* Inorganic debris treatment will be used to meet the LDR proposed treatment

standards (57 FR 958) for the CBC-applicable low level mixed waste in Treatability Group 13, Low Level Mixed Waste TC Metal Inorganic Solid Debris. However, DOE plans to use a number of technologies to meet the treatment standards for these wastes. Therefore, inorganic debris treatment includes a group of several distinct technologies. Each specific technology will be applicable to specific mixed wastes depending on the available waste characteristics data. The following technologies are included in this group:

- Incineration may be applicable in cases where the mixed wastes includes a mixture of organic and inorganic materials.
- Physical separation or decontamination may be applicable in cases where the hazardous or radioactive component of the mixed wastes is present only on the surface of the wastes or can otherwise be readily separated from the waste matrix. In these cases, the radioactive or hazardous waste component can be most effectively removed by technologies such as washing, steam cleaning, abrasive blasting, etching, cutting and disassembly and, for wastes characteristically toxic for mercury, roasting. The technologies in this category only change the form of the wastes but do not eliminate the hazardous waste component. Therefore, treatment of mixed wastes using these technologies can result in the generation of wastewater or other matrices (e.g., liquid mercury) with hazardous characteristics. These new rates may require subsequent treatment to meet LDR treatment standards.
- Immobilization technologies such as stabilization or microencapsulation may be applicable in cases where the hazardous component cannot be readily separated from the waste matrix.

The total generation rate for CBC-applicable low level mixed waste in Treatability Group 13 requiring inorganic debris treatment capacity is projected to be approximately 165 m^3/yr. In addition, DOE projects 720 m^3 of CBC-applicable low level mixed waste to be in stored inventory as of May 8, 1992. Inorganic debris treatment capacity also will be required to manage 128 m^3/yr of non-CBC-applicable low level mixed waste that is currently generated and the 12,981 m^3 projected to be in storage as of May 8, 1992.

The non-CBC-applicable low level mixed waste includes in storage mixed wastes that are no longer generated, and Solvent and California List mixed wastes. Thus, the total combined generation rate of DOE mixed wastes requiring inorganic debris treatment is 293 m^3/yr, and the total projected stored inventory of all mixed wastes is 13,701 m^3.

According to DOE, in determining the needed physical separation treatment capacity, the waste form is a major factor to be evaluated. Many mixed wastes in this treatability group have unusual shapes or configurations whereby waste volume does not provide a representative measurement of the time, equipment, labor, and other resources needed to effectively treat the wastes. A small object with a complex configuration may require a considerably greater treatment "capacity" than a large object with a simple configuration. However, when all other factors are equal, volume is an effective and representative means of measuring the wastes, so DOE has used it nonetheless. (DOE believes that caution should be exercised in analyzing physical separation capacity needs or in measuring a unit's physical separation capacity based on volume.)

To seek to demonstrate sufficient capacity to manage the mixed wastes in this treatability group, DOE is currently planning to construct and operate two mixed waste treatment units using various specialized inorganic debris treatment technologies. These units will be located at the Savannah River Site and Hanford. DOE stated that it has no existing inorganic debris treatment units that provide the capability to perform physical separation. In addition to these specialized units, certain units described in the incineration and stabilization sections will be used to manage these wastes in cases where they provide appropriate treatment.

The existing units that DOE can use to provide inorganic debris treatment are limited to those units providing incineration and stabilization capabilities. These units can manage the specific mixed wastes where incineration or immobilization can be used most effectively to meet the LDR treatment standards. The total annual capacity of the planned inorganic debris treatment includes the capacities of the incineration and stabilization units described in previous sections as well as the capacity of the two planned units that will perform various specialized treatment. The two planned units will be able to provide physical separation inorganic debris treatment capacity as well as other forms of specialized treatment capacity. One unit located at the Savannah River Site is scheduled to begin operation in 1996, and the second unit located at Hanford is scheduled to begin operation in 1999.

Preliminary design of the Hazardous Waste/Mixed Waste Disposal Facility (HW/MWDF) at the Savannah River Site began in December 1991. The HW/MWDF treatment building will contain multi-treatment units. One of the treatment units included in this building is a size reduction unit. This unit is designed to reduce the size of the inorganic solid debris waste prior to stabilization. Since regulations on debris treatment standards are not yet finalized (57 FR 982), DOE states that the HW/MWDF treatment building preliminary design will provide treatment for the inorganic solid debris to meet both the current and future treatment standards. Estimates of the current waste inventory and projected future waste generation rates were used for preliminary planning purposes to size the processes. The approximate waste processing capacity is projected to be 1,100 m^3/yr.

The Hanford Waste Receiving and Process Plant Module II (WRAP II) will also contain treatment units for size reduction. This unit is designed to provide size reduction for dry solids prior to solidification by grout. Preliminary design plans for WRAP II indicate it will provide approximately 1,500 m^3/yr of waste processing capacity.

Once the size of the TC Metal Inorganic Solid Debris waste streams is reduced, DOE believes that the waste can be treated in the planned stabilization units.

Based on the capacity of the existing and planned incineration units (greater than 3,780 m^3/yr) and stabilization units (greater than 78,820 m^3/yr), as well as the capacity of the two planned units that will be able to provide capacity to perform physical separation (2,600 m^3/yr), DOE projects that it will have sufficient capacity to manage mixed wastes requiring inorganic debris treatment. The date upon which DOE's inorganic debris treatment capacity becomes sufficient will depend on the effect of a number of factors as previously discussed. DOE, however, has scheduled the unit at SRS to begin operation in 1996, and the one at Hanford in 1999.

Based on this information, EPA believes that the combined capacity of these units will be sufficient to process contaminated debris.

g. Ion exchange. Ion exchange will be used by DOE to meet the concentration-based treatment standard for the seven DOE low level CBC-applicable mixed wastes in Treatability Group 16, Low Level Mixed Waste TC Metal Wastewaters.

Two of these mixed wastes are generated at one DOE site, Savannah

River Site, at a combined rate of 810 m^3/yr. The May 8, 1992 inventory is projected to be 1,312 m^3. SRS also has two no longer generated mixed wastes with an inventory of approximately 9 m^3. These other no longer generated CBC-applicable mixed wastes at FMPC and INEL have a storage inventory of 103 m^3.

In addition to the projected CBC-applicable quantity of mixed wastes at Savannah River Site, the non-CBC-applicable pre-effective-date inventory of these mixed wastes also will require treatment by ion exchange. For all sites, the total CBC- and-non-CBC-applicable inventory of these mixed wastes projected to be in storage on May 8, 1992, is 2,535 m^3.

To seek to demonstrate sufficient capacity to manage the mixed wastes in this treatability group, DOE is planning to construct and operate an ion exchange facility at SRS and upgrade an existing facility at INEL. See Table A–3. The design capacity of the SRS facility is 4,720 m^3/yr. DOE has stated that two SRS ion exchangers have been fabricated. One unit will provide treatment for high activity wastes and the second one for low activity wastes. One ion exhanger has been placed within the high activity tank facility for installation. However, DOE believes it will need time to determine operating conditions, develop operating procedures for the systems, and determine the effectiveness of the treatment. Therefore, after the first unit is successfully operated to identify any needed improvements or modifications, the second ion exchanger will be modified if necessary and installed.

In addition to the SRS ion exchange facility, DOE is proposing to upgrade an existing ion exchange unit at INEL to provide additional treatment capacity for this treatability group. The specific details regarding this unit will be provided in the **Federal Register** Notice which EPA will be issuing in the near future to address Demonstration 40 CFR 268.5(a)(2). EPA believes therefore that DOE will be able to provide sufficient treatment capacity for the seven mixed wastes in Treatability Group 16.

h. Vitrification. DOE states that it plans to use vitrification to treat the two high level mixed wastes generated at Idaho National Engineering Laboratory. In addition, the mixed waste in Treatability Group No. 18 will undergo vitrification following calcination. Each of the two mixed wastes, high level liquid waste and high level waste calcine, constitutes its own separate treatability group. However, the two mixed wastes are related in that the high level liquid waste stream, after pretreatment, becomes the high level waste calcine stream. Therefore, the total vitrification capacity needed to manage these two mixed wastes can be represented by the generation rate and stored inventory of only one mixed waste, the high level waste calcine stream.

The generation rate of the CBC-applicable high level waste calcine stream is 465 m^3/yr. The inventory of this mixed waste which DOE projects to be in storage prior to May 8, 1992, is 4,240 m^3. In addition to the vitrification capacity needed to manage these quantities of mixed wastes, vitrification capacity also will be needed to manage the quantities of seven non-CBC-applicable high level mixed wastes being generated or stored at INEL.

The seven high level mixed wastes for which a case-by-case extension is not applicable have been divided into three treatability groups based on their treatment requirements:

- Alkaline high level waste solids (two streams)
- Alkaline high level waste slurries (four streams)
- Alkaline high level waste liquids (one stream)

The two mixed wastes in the first non-CBC-applicable treatability group, alkaline high level waste solids, can be vitrified directly. Vitrification capacity will be needed to manage the projected stored inventory of these wastes (2,674 m^3) as well as the quantities projected to be generated (21 m^3/yr).

The four mixed wastes in the second non-CBC-applicable treatability group, alkaline high level waste slurries, will need to be pretreated prior to vitrification. The solids resulting from the pretreatment need to be vitrified.

Although the wastes in this treatability group are being generated at a rate of 9,028 m^3/yr and include a projected inventory of 152,642 m^3 in storage, it is estimated that, after pretreatment, only approximately 35% of this quantity will require vitrification. Therefore, the vitrification capacity needed to manage these wastes is considerably less than that suggested by the generation rate and inventory quantities.

The single mixed waste in the third non-CBC-applicable treatability group, alkaline high level waste liquids, also will need to be pretreated prior to vitrification. The pretreatment planned for this waste includes ion exchange to remove radioactive cesium. Only the spent ion exchange resin generated from the pretreatment will require subsequent vitrification. No other non-CBC-applicable high level waste liquids are generated which will require vitrification treatment. Therefore, the 5,360 m^3 stored inventory of this waste will result in a much smaller quantity of waste requiring vitrification. A minimum volume reduction factor of 10-to-1 is estimated to result from pretreatment.

The liquid phase wastes resulting during the pretreatment of the mixed wastes in the slurry and liquid treatability groups described above will be suitable for grout stabilization.

To seek to demonstrate sufficient capacity to manage this waste, DOE is currently planning to construct the Idaho Waste Immobilization Facility (IWIF) at INEL. See Table A–3.

DOE states that the final treatment for the high level liquid waste and the high level waste calcine will be glass-ceramic type vitrification. This process will be implemented in the IWIF. DOE's supporting studies have concluded that the glass-ceramic process is the preferred method for INEL high level waste immobilization. Based on technical evaluations, and laboratory and pilot plant mockup tests, EPA believes the glass-ceramic process is more efficient than the glass process for calcine waste forms.

The high level liquid waste is currently treated on-site to render the waste non-liquid and non-corrosive. The high level waste calcine resulting from this treatment is placed in an engineered storage unit, known as the calcine bin sets (see appendix, section 10). The IWIF will be sized to provide sufficient treatment capacity for the projected inventory of high level waste calcine.

Treatment will be provided in two phases. First, the Idaho Process Verification Facility (IPVF) will provide the pilot scale demonstration project that will verify the glass-ceramic process. Following this successful demonstration, the full-scale treatment will be brought on-line at the IWIF. DOE states that it also has established the Idaho High Level Waste Technical Development and Process Verification Program to develop and implement technology for the treatment, immobilization, and disposal of high level waste.

DOE believes that the glass-ceramic form meets the definition of high level vitrification (HLVIT) in 40 CFR 268.42 Table 1, Technology Codes and Descriptions of Technology-Based Standards: "Vitrification of high level mixed radioactive wastes in units in compliance with all applicable radioactive protection requirements under control of the Nuclear Regulatory Commission".

To support its conclusions that the glass-ceramic process (waste form) will

provide adequate immobilization, DOE submitted technical development reports which are available in the RCRA Docket. DOE has previously identified the glass-ceramic waste form as similar to the Savannah River glass vitrification waste form. DOE states that the glass-ceramic waste form of vitrification will "provide treatment of the high-level mixed waste" pursuant to applicable nuclear waste acceptance specifications as referenced in the promulgation of the HLVIT treatment standard in the Third Third rulemaking (55 FR 22627). DOE has also compared the definition and the waste acceptance criterion for the Defense Waste Processing Facility (DWPF) high level waste form to the data on glass ceramic waste form. From the comparison, the glass-ceramic waste form meets the defintion of borosilicate waste glass as well as the waste criterion applicable to such material. The glass-ceramic waste form contains a glass phase that encapsulates a crystalline ceramic structure (containing the radioactivity) on a microscopic scale. The waste acceptance criterion is based on leachability studies. DOE indicates that the Savannah River vitrified waste form meets the acceptance criterion. Since the glass ceramic process will provide low leach rates equivalent to the glass process vitrification, it is expected to meet the acceptance criterion as well.

EPA has also determined that the glass-ceramic waste form that DOE is proposing to use is an acceptable technology to meet BDAT.

Procurement and construction are scheduled for FY 2007 through FY 2011, and DOE plans to bring the facility on line in FY 2014. Although DOE has not at this time made a quantitative determination of the capacity of the immobilization facility, it has stated that it will be sized to provide sufficient treatment capacity for the project inventory of high level mixed waste. Based on this commitment and DOE's desire to provide appropriate treatment for these high level wastes, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(4) for these high level mixed wastes at the INEL.

5. Demonstration 40 CFR 268.5(a)(5)

He provides a detailed schedule for obtaining required operating and construction permits or an outline of how and when alternative capacity will be available.

DOE provided schedule milestones for its planned treatment facilities with information sheets in appendices F through K of the application. In letters dated January 21, 1992, and April 1, 1992, DOE provided revised and additional, detailed milestones. These letters are available in the RCRA Docket. These milestones are listed in Table C–1, "Treatment Facilities Schedule Milestones". Table C–1 shows DOE's schedules for performing engineering design (when applicable), obtaining construction and operating permits, and making alternative capacity available.

EPA believes that these milestones satisfy the requirements of Demonstration 40 CFR 268.5(a)(5).

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TABLE C-1
TREATMENT FACILITIES
SCHEDULE MILESTONES

TREATMENT TECHNOLOGIES Incineration		Initiate Title I (Prelim.) Design	Initiate Title II (Final) Design	Complete Procure of Major Construct. Contracts(1)	Apply for RCRA Part B Permit	Receive RCRA Part B Permit	Begin Construct.	Bring Treatment On Line
1. TSCA Incinerator (K-25)	Scheduled Date	Compl.	Compl.	Compl.	Compl.	Compl.	Compl.	Currently Available
2. WERF Incinerator (INEL)	Scheduled Date	Complete. Existing Facility Currently Being Upgraded.			11/92	Operates Under Interim Status	Compl.	3/93
3. Controlled Air Incinerator (LANL)	Scheduled Date	Complete. Existing Facility Currently Being Upgraded.			Interim Status	Operates Under Interim Status	Compl.	3Q FY 95
4. Mound Glass Melter (Mound)	Scheduled Date	Existing Facility Currently Waiting State Approval of Trial Burn Plan and RCRA Part B Permit				Operates Under Interim Status	Compl.	1993 (9)
5. Consolidated Incinerator Facility (SRS)	Scheduled Date	Compl.	Compl.	(2), (8)	Compl.	8/92	(2),(8)	1994 (3)
6. Fluidized Bed Unit (RFP)	Scheduled Date	1 Q FY 95	4 Q FY 95	2Q FY 97	1 Q FY 96	2 Q FY 97 Trial Burn 1Q FY01 Final	3Q FY 97	1Q FY 02
7. Idaho Waste Process. Facility-Incineration Unit (INEL)	Scheduled Date	FY 97	FY 98	FY 2000	FY 98	Pending State Approval	FY 2000	FY 2004

TREATMENT TECHNOLOGIES Oxidation		Initiate Title I (Prelim.) Design	Initiate Title II (Final) Design	Complete Procure of Major Construct. Contracts(1)	Apply for RCRA Part B Permit	Receive RCRA Part B Permit	Begin Construct.	Bring Treatment On Line
1. Mixed Waste Treatment Facility (Hanford)	Scheduled Date	Compl.	Compl.	Compl.	Interim Status 4/92	11/93	Initiated	3/93
2. HW Trt Fac Reactive Waste Trtmnt Unit (LANL)	Scheduled Date	4Q FY91	4Q FY92	4Q FY94	4Q FY93	1Q FY94	1Q FY95	3Q FY97
3. Maintenance and Storage Facility (Hanford)	Scheduled Date	1/91	9/92	4/93	11/93	11/95	4/93	4/95

TREATMENT TECHNOLOGIES Stabilization		Initiate Title I (Prelim.) Design	Initiate Title II (Final) Design	Complete Procure of Major Construct. Contracts(1)	Apply for RCRA Part B Permit	Receive RCRA Part B Permit	Begin Construct.	Bring Treatment On Line
1. WERF - Grout Facility (INEL)	Scheduled Date	Compl.	Compl.	Compl.	Interim Status 11/92	Interim Status	Compl.	Currently Available
2. Z-Area Saltstone (SRS)	Scheduled Date	Compl.	Compl.	Compl.	Compl.	Compl.	Compl.	Currently Available
3. Cement Solidification System (WVDP)	Scheduled Date	Compl.	Compl.	Compl.	Compl.	Compl.	Compl.	Currently Available
4. Unit 42 Liquid Process Waste Trtmnt Fac. (RFP)	Scheduled Date	Compl.	Compl.	Compl.	Compl.	Compl.	Compl.	Currently Available
5. Grout Treatment Facility (Hanford)	Scheduled Date	Compl.	Compl.	Compl.	Compl.	12/92	3/90	10/92
6. Halliburton Solidification (RFP)	Scheduled Date	Compl.	Compl.	Compl.	Interim Status (12)	Interim Status (12)	4Q FY92	1992
7. RMW Management Facility - Stabilization (SNLA)	Scheduled Date	Compl.	Upgrade 3Q 92	Upgrade 3Q 93	Interim Status Apply Part B - 1Q 95	2003	4Q 93	2Q 94
8. MW Treatment Facility- Stabilization Unit (Hanf)	Scheduled Date	Compl.	Compl.	Compl.	Interim Status 4/92	11/93	4/90	3/93
9. CIF Ashcrete Facility (SRS)	Scheduled Date	Compl.	Compl.	(2)	Compl.	6/92	(2)	(3)
10. HW Treatment Facility - Stabilization Unit (LANL)	Scheduled Date	Initiated	4Q FY92	4Q FY94	4Q FY93	4Q FY94	4Q FY95	3Q FY97
11. M-Area Waste (Disposal Facility (SRS)	Scheduled Date	9/94	6/95	12/95	Wastewater Permit	Wastewater Permit	(2)	12/97
12. HW/MW Disposal Facility- Stabilization Unit (SRS)	Scheduled Date	Initiated	3/93	(2)	10/93	(4)	(2)	(5)
13. Microwave Melting Solidification System (RFP)	Scheduled Date	2Q FY 98	4Q FY 98	2Q FY 00	2Q FY 98	3Q FY 00	3Q FY 00	1Q FY 03

TREATMENT TECHNOLOGIES Stabilization		Initiate Title I (Prelim.) Design	Initiate Title II (Final) Design	Complete Procure of Major Construct. Contracts(1)	Apply for RCRA Part B Permit	Receive RCRA Part B Permit	Begin Construct.	Bring Treatment On Line
14. Polymer Solidification (RFP)	Scheduled Date	1Q FY 97	3Q FY 97	1Q FY 98	2Q FY 97	1Q FY 98	2Q FY 96	1Q FY00
15. Idaho Waste Process. Facility-Stabilization Unit (INEL)	Scheduled Date	FY 97	FY 98	FY 00	FY 98	Pending State Approval	FY 2000	FY 2004
16. Decontam. and Waste Treat. Facility-Stabilization Unit (LLNL)	Scheduled Date	12/92 (6)	7/93	8/96	10/94	7/96	8/96	11/99
17. Waste Receiving and Process. Plant (Hanford)	Scheduled Date	1/94 (7)	1/95	11/96	8/94	8/96	8/96	9/99

TREATMENT TECHNOLOGIES Lead Decontamination/ Macroencapsulation		Initiate Title I (Prelim.) Design	Initiate Title II (Final) Design	Complete Procure of Major Construct. Contracts(1)	Apply for RCRA Part B Permit	Receive RCRA Part B Permit	Begin Construct.	Bring Treatment On Line
1. Lead Encaps./ Lead Decon. and Recycle Unit (LANL)	Scheduled Date	N/A	N/A	N/A	N/A (Recycling)	N/A (Recycling)	N/A	12/92 (Recycling)
2.Lead Recycling Fac (INEL)	Scheduled Date	1Q FY93	1Q FY94	3Q FY94	N/A (Recycling)	N/A (Recycling)	4 Q FY 94	2Q FY 95 (Recycling)
3. HW/MW Disposal Facility- Lead Macroencaps. Unit (SRS)	Scheduled Date	Initiated	3/93	(2)	10/93	(4)	(2)	(5)

TREATMENT TECHNOLOGIES Vitrification		Initiate Title I (Prelim.) Design	Initiate Title II (Final) Design	Complete Procure of Major Construct. Contracts(1)	Apply for RCRA Part B Permit	Receive RCRA Part B Permit	Begin Construct.	Bring Treatment On Line
1. Waste Immobilization Facility (INEL)	Scheduled Date	FY 04	FY 04	FY 07	FY 02	FY10	FY 08	FY14

TREATMENT TECHNOLOGIES Other Low Level RMW Treatment Facilities		Initiate Title I (Prelim.) Design	Initiate Title II (Final) Design	Complete Procure of Major Construct. Contracts(1)	Apply for RCRA Part B Permit	Receive RCRA Part B Permit	Begin Construct.	Bring Treatment On Line
1. SRL In-Tank Treatment System (SRS)	Scheduled Date	Compl.	Compl.	Compl.	(10)	(10)	Initiated	7/92
2. HW/MW Disposal Fac.-Mercury Trtmnt Unit (SRS)	Scheduled Date	Initiated	3/93	(2)	10/93	(4)	(2)	(5)
3.Waste Receiving and Process. Plant, Module II(Hanford)	Scheduled Date	1/94	1/95	11/96	8/94	8/96	8/96	9/99
4. Decontam. and Waste Trtmnt Fac.-Cyanide Destruction (LLNL)	Scheduled Date	12/92	7/93	8/96	10/94	7/96	8/96	11/99
5. TAN Portable Water Treatment Unit (INEL)	Scheduled Date	Compl.	Compl.	Compl.	Interim Status	Operates Under Interim Status	Compl.	(11)

NOTES:

FY Means Fiscal Year (October 1-September 30, following).
N/A Means Not Applicable.
(1) Where Applicable.
(2) Within 90 days after permit approval (FFCA commitment).
(3) Within 39 months after permit approval (FFCA commitment).
(4) Expected 2 years after application.
(5) Expected 2 years after construction begins.
(6) Contract let for design criteria.
(7) Contract let for conceptual design.
(8) Construction bid package prepared, awaiting issuance of RCRA permit to release for bid.
(9) Pending Permit issuance.
(10) Interim Status Modification.
(11) Expected availability date is after completion of current cleanup project which is expected to complete July 1992. Environmental and safety documentation require upgrading.
(12) Modification to be submitted.

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6. Demonstration 40 CFR 268.5(a)(6)

The applicant must demonstrate that he has arranged for adequate capacity to manage his waste during an extension and has documented in the application the location of all sites at which the waste will be managed.

With respect to this demonstration, DOE needs to show that it has sufficient capacity to manage the mixed wastes during the requested extension period. In particular, DOE needs to demonstrate that at each facility, they have sufficient storage capacity to manage these wastes in accordance with the RCRA hazardous waste regulations. In making this evaluation, DOE has provided information on generation rates, inventories, and storage facilities of the CBC-applicable mixed wastes. In addition, DOE has provided information on non-CBC-applicable mixed wastes; these wastes were factored into DOE's capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity.

For each of the 31 facilities, DOE has shown that, against the total storage capacity available at each facility, DOE has sufficient storage capacity for the mixed wastes managed at each facility during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). This demonstration is in the appendix of this notice. As a result, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6).

7. Demonstration 40 CFR 268.5(a)(7)

Any waste managed in a surface impoundment or landfill during the extension period will meet the requirements of paragraph (h)(2) of 40 CFR 268.5.

The only surface impoundments to be used during the requested extension period are the ICPP Percolation Ponds 1 and 2 at INEL. DOE is currently managing one CBC-applicable mixed waste, the P & U Listed RAD Contaminate Condensate, by mixing it with industrial wastewater and discharging it to the ICPP ponds. DOE states that these ponds are currently regulated as interim status surface impoundments. Table 10–3 in the appendix provides the generation rate, EPA waste codes, and treatment technology specified as the LDR treatment standard.

Prior to mixing, this mixed waste is a characteristically corrosive California List waste; however, the industrial wastewater effectively neutralizes the waste to remove the corrosivity characteristic. The mixed waste also contains low concentrations of F-listed solvents; however, DOE believes the concentrations of these solvents meet the corresponding concentration-based LDR treatment standards for the F-listed solvents prior to mixing with industrial wastewater. The mixed waste also contains low concentrations of P & U Listed hazardous wastes. Prior to mixing with industrial wastewater, this mixed waste also meets all applicable concentration-based LDR treatment standards for the P & U Listed wastewaters. However, it does not meet the LDR treatment standards for watewaters for those P & U listings with a technology-based treatment standard (i.e., wet air or chemical oxidation followed by carbon adsorption). As a result, this waste will become prohibited from land disposal on May 8, 1992, and DOE is requesting a case-by-case extension.

Between May 8, 1992 and September 23, 1992, DOE states it plans to continue to neutralize the P & U Listed RAD Contaminated Condensate mixed waste with industrial wastewater and to dispose of this waste in the ponds identified above. After September 23, 1992, however, DOE plans to cease the neutralization process as well as the disposal of this stream in the ICPP ponds. See the appendix, section 10, which describes DOE's management strategy after that date for this mixed waste.

In accordance with EPA's September 23, 1988, Clarification Notice (53 FR 37045), DOE submitted a revised part A notification to EPA before March 23, 1989, thereby qualifying the ICPP ponds for RCRA interim status. The September 23, 1988, notice also triggered section 3005(j)(6)(A) of RCRA, under which facilities qualifying for interim status are granted a period of four years to meet the minimum technological requirements as set forth in section 3005(j)(1) and 3004(o) of RCRA. DOE states that during the four-year period, affected interim status surface impoundments are in compliance with the requirements of section 3005(j)(1) and such units are in compliance until September 23, 1992, regardless of whether the minimum technological requirements have been installed on the units.

In evaluating DOE's request for the case-by-case extension, EPA has reviewed the conflict in RCRA concerning the deadline by which surface impoundments receiving wastes that are newly identified or listed as hazardous must come into compliance with minimum technological requirements of section 3004(o)(1)(A). As has been pointed out by EPA (57 FR 999), section 3005(i)(6) allows four years for retrofitting or closing impoundments receiving newly identified or listed wastes. On the other hand, section 3004(h)(4) states that throughout a national capacity variance or case-by-case extension, wastes may be placed in a surface impoundment only if it is in compliance with the minimum technological requirements.

EPA has recently proposed an amendment to the 40 CFR 268.5 interpretation which would allow interim status surface impoundments being used in connection with a case-by-case extension up to four years to meet the minimum technological requirements of section 3004(o) (57 FR 4170, February 4, 1992). Accordingly, if that proposal is finalized, as EPA currently anticipates, DOE's use of the impoundment discussed here will be permissible.

Based on this interpretation and on DOE's stated plan to cease mixed waste discharges to the ICPP ponds and close them by September 22, 1992, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(7).

8. Demonstrations for Transuranic Mixed Waste

As described in section II.A.2.b(21), DOE plans to manage transuranic mixed wastes by storing them at individual generating facility sites until such time as the Waste Isolation Pilot Plant (WIPP) is able to receive and dispose of them. In accordance with Public Law 96–164, DOE undertook and completed the development, design, and construction of the WIPP. EPA believes that DOE therefore made a good-faith effort to provide the capacity to manage transuranic mixed wastes and has met the requirements of Demonstration 40 CFR 268.5(a)(1), "Good-faith effort". The requirement in 40 CFR 268.5(a)(2), "Binding Contractual Commitment" is not applicable as the capacity has already been constructed, and only legal impediments not controlled by DOE prevent its operation at this time.

To make the WIPP available requires withdrawal of the land from the public domain. A Federal court has determined that this withdrawal requires Congressional action. The fact that this action has not yet occurred is a circumstance which EPA believes is beyond DOE's control. In addition, on going litigation concerning permitting issues also prevents DOE from shipping mixed wastes to WIPP. Therefore EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(3).

Regarding Demonstration 40 CFR 268.5(a)(4), "Capacity being Constructed will be Sufficient", EPA has noted that it granted DOE a conditional no-migration

determination for testing and experimentation to determine the long-term acceptability of the WIPP (55 FR 47700). Under this determination DOE can place up to 8,500 drums of mixed waste; this is 1% of the WIPP design capacity. These conditions notwithstanding, EPA concluded in its review of DOE's no migration petition that the WIPP is a promising site for the permanent disposal of mixed waste. The planned capacity of the WIPP will be sufficient to hold all of DOE's transuranic mixed wastes. While the WIPP has been approved for a test phase only, EPA believes that the uncertainties as to ultimate use of the WIPP are not so great as to preclude considering it in assessing DOE's ultimate disposal capacity. Therefore, EPA believes that Demonstration 40 CFR 268.5(a)(4) has been met.

For Demonstration 40 CFR 268.5(a)(6), "Detailed Scheduled/How and When Alternate Capacity Available", DOE, as described above, completed construction of WIPP and obtained a no-migration determination. Given the uncertainties involved with the land withdrawal and litigation, EPA believes DOE is unable at this time to provide meaningful schedules for proceeding with providing treatment capacity. EPA believes that DOE, in completing construction and requesting land withdrawal, has provided and proceeded on what schedules it can and has therefore met the requirements of Demonstration 40 CFR 268.5(a)(5).

Demonstration 40 CFR 268.5(a)(6), "Storage Capacity", is reviewed facility by facility in the appendix of this notice. Demonstration 40 CFR 268.5(a)(7), "Impoundments or Landfills", is not applicable.

III. Consultation With States

In accordance with 40 CFR 268.5(e), EPA has consulted with the States of New York, Pennsylvania, Kentucky, South Carolina, Tennessee, Illinois, Ohio, New Mexico, Texas, Missouri, Colorado, California, Washington, and Idaho. DOE facilities are located in each of these States. A record of these consultations and comments provided by the States have been placed in the Docket. EPA will evaluate these comments and any others received and will provide a response with the Notice of Final Determination.

IV. EPA's Proposed Action

For the reasons discussed above, EPA believes that, with the exception of Demonstration 40 CFR 268.5(a)(2), DOE has satisfied the demonstrations of 40 CFR 268.5. As stated previously in section II.C.2, EPA anticipates that, in the near future, it will separately issue for public comment a companion proposal addressing whether DOE's application can be accepted with respect to Demonstration 40 CFR 268.5(a)(2).

Therefore, EPA is today proposing to grant a one-year extension of the May 8, 1992, LDR effective date for the 352 CBC-applicable mixed wastes for which DOE has requested an extension, to the extent that DOE can meet the requirements in 40 CFR 268.5(a)(2). If the extension is granted, these wastes, which would not be prohibited from land disposal, could continue to be managed in the manner in which they are currently handled, but not later than May 8, 1993 (unless the extension is renewed for up to one additional year, in which case it would be not later than May 8, 1994), while the proposed treatment facilities are being constructed and developed. EPA notes that its review was made for the two-year period.

For any petition that is granted, the petitioner must comply with the provisions of 40 CFR 268.5 (f) and (g), and must submit progress reports that address the progress being made toward providing the necessary treatment capacity, identify any delay or possible delay in developing the capacity, and describe the mitigation actions being taken in response to such an event. Because of the relatively long schedules proposed by DOE, EPA believes that progress can be adequately monitored on a quarterly basis. EPA must also be notified of any change in the conditions specified in the petition. The extension remains in effect unless DOE fails to make a good-faith effort to meet the schedule for completion, a required permit is denied or revoked, conditions certified in the application change, or DOE violates any law or regulations in 40 CFR parts 260–266 and 268.

If the extension is denied, however, DOE will, effective May 8, 1992, be subject to the applicable LDR regulations with respect to these mixed wastes.

Should EPA make a final determination to approve an extension of the LDR effective date, EPA will propose certain additional conditions:

1. Within 30 days of issuance of the extension, DOE must submit a plan for continuing to search for and utilize commercial treatment facilities;

2. DOE must keep EPA advised, via the required progress reports, of its utilization of commercial capacity, as well as its progress in designing, permitting, and constructing its own facilities;

3. All storage facilities identified in the application must comply with the applicable RCRA interim status or permit requirements, including any regulations promulgated pursuant to subtitle C of RCRA.

4. Effective with the next issue, DOE must update its Five-Year Plan to explicitly incorporate all commitments which are the bases of the approval of the final extension; and

5. Approval of the extension will not countermand or otherwise affect DOE's obligations under any existing Federal Facilities Compliance Agreements. Compliance with all provisions of such agreements relating to steps to be taken that will serve the purpose of providing treatment, recovery, or disposal capacity for Third Third mixed wastes is a condition of the granting of this extension. Failure to comply with such a provision shall be a ground for revocation for the extension.

Authority: Sections 1006, 2002(a), 3001, and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6924).

Dated: May 7, 1992.

Don R. Clay,

Assistant Administrator.

Appendix—Evaluation of Facility-Specific Demonstrations

In the sections that follow are descriptions of each of the 31 facilities for which DOE is requesting an extension. Information is provided on waste streams, treatability groups, treatment technologies, generation rates, inventories, and storage facilities. Also included are EPA's evaluations of Demonstration 40 CFR 268.5(a)(6).

1. Argonne National Laboratory—East (ANL–E); Argonne, Illinois

The Argonne National Laboratory—East (ANL–E) occupies a 1,700 acre tract located 22 miles southwest of Chicago. ANL–E is a multi-disciplinary research and development laboratory conducting both basic and applied research in a variety of fields. Major components of its mission include: (1) Development and operation of national research facilities for use in research on basic and technology-related problems; (2) basic experimental and theoretical research on fundamental problems in the physical, life, and environmental sciences to support development of energy technologies; (3) technology directed research in advanced fission reactors and other technologies for energy applications; and (4) technical evaluation support to DOE and other Federal agencies on nationally

important projects and technology options. ANL–E is seeking extensions to the effective date for three CBC-applicable low level mixed wastes and one CBC-applicable transuranic mixed waste that are generated and stored at ANL–E as shown in Tables 1–1, 1–2, and 1–3.

a. Waste stream and treatment information. ANL–E currently generates both CBC-applicable low level mixed waste and CBC-applicable transuranic mixed waste; ANL–E does not generate any CBC-applicable high level mixed waste. Two CBC-applicable low level mixed wastes generated at ANL–E have a combined generation rate of 3.20 m^3/yr. The other low level mixed waste is classified as CBC-applicable even though DOE projects it will not be generated after May 8, 1992. The reason for including this mixed waste is that DOE believes this mixed waste may need to be managed in a manner that constitutes removal from storage during the extension period and therefore becomes subject to the LDR storage prohibition. This mixed waste is referred to as no longer generated mixed waste.

The three low level mixed wastes fall into three treatability groups which in turn correspond to three treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 1–1 for the two low level mixed wastes that will be generated after May 8, 1992. The treatability group, waste code, and the existing inventory for the no longer generated mixed waste are shown in Table 1–2.

The transuranic mixed waste is generated at a rate of 0.02 m^3/yr as shown in Table 1–3. While DOE plans to store both low level and transuranic mixed wastes at ANL–E during the extension period, DOE's long-term management strategy for transuranic mixed waste is different than for low level mixed waste. As discussed in section II.A.2.b.(21), DOE plans to store and manage all transuranic mixed waste at its facilities until such time as the WIPP is able to accept the wasters.

b. Demonstration 40 CFR 268.5(a)(6). ANL–E has seven storage facilities that will be able to accept containerized mixed waste. DOE states that each facility has RCRA interim status. The name, building number, and design capacity for each container storage facility are provided in Table 1–4. The total design capacity of these facilities is 106 m^3.

TABLE 1–1.—ANL–E CBC–APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual Generation Rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability group No. 8: LLW TC metal nonwastewaters:			
Evaporator/concentration bottom waste	2.64	D007, D009	Stabilization.
Subtotal	2.64		
Treatability group No. 12: radioactive lead solids:			
Solid (mixed) waste	.56	D008	Lead decontamination and recycle/Macroencapsulation.
Subtotal	.56		
Total (all treatability groups)	3.20		

TABLE 1–2.—ANL–E CBC–APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA Waste codes	Inventory As of May 8, 1992	Treatment technology
Treatability Group No. 3: LLW unquantifiable P&U listed organic Nonwastewaters—C,N,O			
Contaminated animal parts	U210	3.79	Incineration.
Subtotal		3.79	
Total (all treatability groups)		3.79	

TABLE 1–3. ANL–E CBC–APPLICABLE TRANSURANIC MIXED WASTE

Waste stream name	Annual Generation Rate (m^3/yr)	EPA waste codes
IFR lab scale electrorefinery wastes	0.02	D005, D006.
Subtotal	.02	
Total	.02	

TABLE 1-4. ANL-E MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building Number	Design capacity (m^3)
Building 200-M-Wing	200	4.38
Interim TSD facility	306	24.19
Staging area	317	15.15
Storage	374A	43.72
Waste management office	329	14.02
Building 325C west	325C	4.58
Building 325C east	325C	0.76
Total		106.80

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included both CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a storage capacity of 106 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 72.5 m^3; on May 8, 1993, 76.1 m^3; and on May 8, 1994, 79.6 m^3. DOE's evaluation shows that ANL-E will have sufficient container storage capacity for the three CBC-applicable low level mixed wastes and one CBC-applicable transuranic mixed waste during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for ANL-E.

2. Argonne National Laboratory—West (ANL-W); Idaho Falls, Idaho

The Argonne National Laboratory—West (ANL-W) is located on the southeastern portion of the INEL near Idaho Falls, Idaho. The primary mission is research and development in support of the nation's fast-reactor program. Reactor complexes at ANL-W include the Experimental Breeder Reactor No. 2, the Transient Reactor Test Facility, and the Zero Power Physics Reactor. ANL-W is seeking extensions to the effective date for 10 CBC-applicable low level mixed wastes and seven CBC-applicable transuranic mixed wastes streams that are generated and stored at ANL-W as shown in Tables 2-1, 2-2, 2-3, and 2-4.

a. Waste stream and treatment information. ANL-W currently generates both CBC-applicable low level mixed waste and transuranic mixed waste: ANL-W does not generate any CBC-applicable high level mixed waste. Seven low level mixed wastes generated at ANL-W have a combined generation rate of 0.852 m^3/yr. The other three low level mixed wastes are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes.

The 10 low level mixed wastes fall into six treatability groups which in turn correspond to five treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 2-1 for the low level mixed wastes that will be generated after May 8, 1992. Treatability groups, waste codes, and existing inventories for the no longer generated mixed wastes are shown in Table 2-2.

The combined generation rate of the CBC-applicable transuranic mixed wastes is 0.612 m^3/yr as shown in Table 2-3. EPA waste codes and the May 8, 1992, inventories for the no longer generated transuranic mixed wastes are given in Table 2-4. While DOE plans to store both low level and transuranic mixed wastes at ANL-W during the extension period, DOE's long-term management strategy for transuranic mixed waste is different than for low level mixed waste. As discussed in section II.A.2.b(21), DOE plans to store and manage all transuranic mixed wastes at its facilities until such time as the WIPP is able to accept the wastes.

b. Demonstration 40 CFR 268.5(a)(6). ANL-W has two storage facilities that will be able to accept containerized mixed waste. DOE states that each facility has RCRA interim status. The name, building number, and design capacity for each container storage facility are listed in Table 2-5. The total design capacity of these facilities is 208 m^3.

TABLE 2-1. ANL-W CBC.—APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability group No. 6: LLW TC Metal organic solid debris:			
Contaminated HG-IBC Cask Main	0.020	D009	Incineration followed by stabilization.
Subtotal	0.020		
Treatability group No. 8: LLW TC Metal nonwastewaters:			
Electrorefiner stripped salt—BA & CD*	0.110	D005, D006	Stabilization.
Subtotal	0.110		

TABLE 2-1. ANL-W CBC.—APPLICABLE LOW LEVEL MIXED WASTE—Continued

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability group No. 11: LLW water reactives:			
Sodium (contaminated) tin bismuth alloy	0.170	D001, D003	Oxidation (thermal, water reaction).
Sodium—LLW	0.230	D001, D003	
Sodium Potassium	0.040	D001, D003	
Subtotal	0.440	D001, D003	
Treatability group No. 12: LLW radioactive lead solids:			
IFR experiment lead waste	0.072	D008	Lead decontamination and recycle/macroencapsulation.
Subtotal	0.072		
Treatability group No. 13: LLW TC inorganic solid debris:			
U-CD glove box waste	0.210	D006	Inorganic debris treatment.
Subtotal	0.210		
Total (all treatability groups)	0.852		

TABLE 2-2. ANL-W CBC.—APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability group No. 1: LLW ignitable liquids—TOC10%:			
Ethanol-Vermiculite-Spillignitable Soln	D001	0.420	Incineration (followed by stabilization if necessary).
Subtotal		0.420	
Treatability group No. 6: LLW TC metal organic solid debris:			
Potassium chromate on blotter paper	D007	0.210	Incineration followed by stabilization.
Subtotal		0.210	
Treatability group No. 12: LLW radioactive lead solids:			
Lead	D008	0.870	Lead decontamination and recycle/macroencapsulation.
Subtotal		0.870	
Total (all treatability groups)		1.500	

TABLE 2-3. ANL-W CBC.—APPLICABLE TRANSURANIC MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes
Sodium—TRU	0.001	D001, D003
TRU-CD hot cell waste	0.420	D006
Electrorefiner insolubles cadmium	0.019	D006
Electrorefiner stripper cadmium	0.022	D006
Elemental hardware FCF waste	0.150	D005, D008
Subtotal	0.612	
Total	0.612	

TABLE 2-4. ANL-W CBC.—APPLICABLE TRANSURANIC MIXED WASTE NO LONGER GENERATED

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Inventory as of May 8, 1992
Lead shield plugs	0.000	D008	0.025
Sodium potassium stored at RSWF	0.000	D001, D003	0.000
Total			0.025

TABLE 2-5. ANL-W.—MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Radioactive scrap and waste facility	771	193.00
Radioactive sodium storage trailers	797, 791	15.00
Total		208.00

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included both CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 208m³, DOE stated the mixed waste inventories to be on May 8, 1992, 11.6 m³; on May 8, 1993, 13.1m³, and on May 8, 1994, 14.7 m³. DOE's evaluation shows that ANL–W will have sufficient container storage capacity for the 10 CBC-applicable low level mixed wastes and seven CBC-applicable transuranic mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for ANL–W.

3. Bettis Atomic Power Laboratory (BAPL); West Mifflin, Pennsylvania

The Bettis Atomic Power Laboratory (BAPL) is operated by the Westinghouse Electrical Corporation for the U.S. Department of Energy (DOE) and is engaged in the design and development of Naval nuclear propulsion reactors. BAPL is seeking an extension to the effective date for 11 CBC-applicable low level mixed waste streams that are generated and stored at BAPL as shown in Tables 3–1 and 3–2.

a. Waste stream and treatment information. BAPL currently generates one CBC-applicable low level mixed waste having a generation rate of 0.05 m³/yr. The other ten low level mixed wastes are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes. BAPL does not currently generate any CBC-applicable high level or transuranic mixed wastes.

The CBC-applicable low level mixed wastes fall into three treatability groups which in turn correspond to three treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 3–1 for low level mixed wastes that will be generated after May 8, 1992. Treatability groups, waste codes, and existing inventories for the no longer generated mixed wastes are shown in Table 3–2.

b. Demonstration 40 CFR 268.5(a)(6). BAPL has one storage facility that will be able to accept containerized mixed wastes. DOE states that this facility has RCRA interim status. The name, building number, and design capacity for this container storage facility is listed in Table 3–3. The total design capacity of this facility is 78m³.

TABLE 3–1.—BAPL CBC—APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m³/yr)	EPA waste codes	Treatment technology
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Lead Seals From Cast Iron Pipes	0.05	D008	Lead decontamination and recycle/macroencapsulation.
Subtotal	0.05		
Total (All Treatability Groups)	0.05		

TABLE 3–2.—BAPL CBC—APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 4: LLW TC Metal Nonignitable Organic Liquid:			
Inactive Waste Isolation Pit Oil	D009, D010	0.100	Incineration followed by stabilization.
Sump #6 Oil	D008, D009, D010	1.800	
East Barrier Door Well Oil	D008, D009, D001	0.400	
Subtotal		2.300	
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Lead Base Paint Chips	D007, D008	0.050	Stabilization.
Subtotal		0.050	

TABLE 3-2.—BAPL CBC—APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED—Continued

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Lead Floor Anchors	D008	0.014	Lead decontamination and recycle/macroencapsulation.
Lead Sprinkler Fuses	D008	0.001	
Misc. Lead Bearing MEL Waste	D008	0.100	
Pipe Joint Fittings With Lead Inserts	D008	0.210	
Transfer and Shipping Casks	D008	2.700	
X-ray Cell Shielding	D008	0.060	
Subtotal		3.085	
Total (All Treatability Groups)		5.435	

TABLE 3-3—BAPL. MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Mixed Waste Storage Facility	None	78.00

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed waste. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included both CBC-applicable and non-CBC-applicable mixed waste. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 78 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 9.9 m^3; on May 8, 1993, 10.8 m^3; and on May 8, 1994, 11.7 m^3. DOE's evaluation shows that BAPL will have sufficient container storage capacity for the 11 CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for BAPL.

4. Brookhaven National Laboratory (BNL); Upton, New York

The Brookhaven National Laboratory (BNL) is a multi-program research and development laboratory located in central Suffolk County of Long Island about 60 miles east of New York City. The major functions of BNL include the design, construction, and operation of large research facilities, such as particle accelerators, nuclear reactors, and synchrotron storage rings, to carry out research in high energy and nuclear physics; research in material, chemical, and biological sciences; and research in energy-related life and environmental sciences. BNL is seeking an extension to the effective date for a single CBC-applicable low level mixed waste stream that is generated and stored at BNL as shown in Table 4-1.

a. Waste Stream and Treatment Information. BNL currently generates one CBC-applicable low level mixed waste having a generation rate of 3.00 m^3/yr; BNL does not generate any CBC-applicable high level or transuranic mixed wastes. As shown in Table 4-1, the one CBC-applicable low level mixed waste falls into one treatability group which in turn corresponds to one treatment technology.

b. Demonstration 40 CFR 268.5(a)(6). BNL has three storage facilities that will be able to accept containerized mixed waste. DOE states that these facilities have RCRA interim status. The name, building number, and design capacity for each container storage facility are listed in Table 4-2. The total design capacity of these facilities is 81 m^3.

TABLE 4-1.—BNL CBC—APPLICABLE LOW LEVEL MIXED WASTE

Waste stream mane	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%:			
Scintillation Fluid	3.00	D001	Incineration (followed by stabilization f necessary).
Subtotal	3.00		
Total (all treatability groups)	3.00		

TABLE 4-2.—BNL MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Conex Containers	None	6.25
Drum Storage Facility	None	66.62
Hazardous Waste Management Facility	448	9.07
Total		81.94

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 81 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 27.2 m^3; on May 8, 1993, 35.3 m^3; and on May 8, 1994, 43.5 m^3. DOE's evaluation shows that BNL will have sufficient container storage capacity for the one CBC-applicable low level mixed waste during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 3, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for BNL.

5. Colonie Interim Storage Site (CISS); Colonie, New York

The Colonie Interim Storage Site (CISS) is situated on 11.2 acres occupied by the former National Lead Industries property and consists of buildings used by National Lead to manufacture a variety of products from depleted uranium. The property was transferred to the DOE in 1984 for remediation under DOE's Formerly Used Sites Remedial Action Program (FUSRAP). CISS is currently being used as an interim storage facility for radioactively contaminated soil removed from affected vicinity properties and RCRA hazardous and mixed wastes resulting from past on-site operations. CISS is seeking extensions to the effective date for 23 no longer generated CBC-applicable low level mixed waste streams that are stored at CISS as shown in Table 5-1.

a. Waste stream and treatment information. CISS currently manages 23 CBC-applicable low level mixed wastes which are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. CISS does not currently manage any high level or transuranic mixed wastes. As shown in Table 5-1, the 23 CBC-applicable low level mixed wastes fall into five treatability groups which in turn correspond to three treatment technologies. Treatability groups, waste codes, existing inventories, and treatment technologies are shown in Table 5-1.

b. Demonstration 40 CFR 268.5(a)(6). CISS has one storage facility that will be able to accept containerized mixed wastes. DOE states that it has RCRA interim status. The name, building number, and design capacity for the container storage facility is listed in Table 5-2. The total design capacity of this facility is 55 m^3.

TABLE 5-1.—CISS CBC—APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 1: LLU Ignitable Liquids—TOC>10%:			
Sump Waste (D001)	D001	0.830	Incineration (followed by stabilization if necessary).
Waste Oil (D001)	D001	0.210	
Waste Oil (D001, EP TOX)	D001, D006, D008, D009	0.210	
Liquid Waste—Ignitable D001, D039 #350	D001, D039	0.210	
Liquid Waste—Ignitable D001, D023 #510	D001, D023	0.150	
Subtotal		1.610	
Treatability Group No. 4: LLW TC Metal Nonignitable Organic Liquid:			
Waste Oil (D002)	D002	0.420	Incineration followed by stabilization.
Waste Oil (D006)	D006	0.420	
Waste Oil (D008)	D008	0.210	
Waste Oil (D011)	D011	0.210	
Subtotal		1.260	
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Acidic Waste (D002, TCLP)	D002	0.210	Stabilization.
Lab Waste	D006, D010	0.210	
Sump Waste—Liquid	D006	0.210	
Sump Waste—Solid	006	0.210	
Unknown Liquid (D008)	D008	0.210	
Unknown Liquid (D009)	D009	0.210	
Unknown Sludge	D002, D006	0.020	
D007, D040 #445	D007, D040	0.020	

TABLE 5-1.—CISS CBC—APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED—Continued

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Subtotal		1.300	
Treatability Group No. 9: LLW F006, F007, F008, F009 Nonwastewater:			
Electroplating Waste (F006)	F006	2.080	Stabilization.
Electroplating Waste (F006, F008)	F006, F008	7.060	
Electroplating Waste (F006, F009)	F006, F009	0.620	
Electroplating Waste (F007)	F007	1,460	
Electroplating Waste (F009)	F009	5.830	
Subtotal		17.050	
Treatability Group No. 13: LLW TC Metal Inorganic Solid Debris:			
Cadmium Balls/Rack	D006	0.420	Inorganic Debris treatment.
Subtotal		0.420	
Total (all treatability groups)		21.640	

TABLES 5-2.—CISS MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
CISS Building	000	55.00
Total		55.00

In the application, DOE has provided information on the container storage capacity need for CBC-applicable and non-CBC-applicable mixed wastes. This inforamtion includes the 1990 year-end inventory and projected storage inventory as of May 8, 1992, for each mixed waste. As shown in the application, no further generation of CBC-applicable or non-CBC-applicable mixed wastes is projected.

Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 55 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 44 m^3; on May 8, 1993, 44 m^3; and on May 8, 1994, 44 m^3. DOE's evaluation shows that CISS will have sufficient container storage capacity for the 23 CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for CISS.

6. Energy Technology and Engineering Center (ETEC); Canoga Park, California

The Energy Technology and Engineering Center (ETEC) is an engineering development complex operated for DOE by the Rocketdyne Division of Rockwell International Corporation. ETEC is located within the Santa Susana Field Laboratory site in southeastern Ventura County, California. The primary mission of ETEC is to provide engineering, testing, and development of components related to liquid metals technology and to conduct applied engineering development of emerging energy technologies. ETEC is seeking extensions to the effective date for three CBC-applicable low level mixed wastes and one CBC-applicable transuranic mixed waste generated and stored at ETEC as shown in Tables 6-1, 6-2, and 6-3.

a. Waste stream and treatment information. ETEC currently generates both CBC-applicable low level mixed wastes and transuranic mixed wastes. ETEC does not currently generate any CBC-applicable high level mixed wastes. One CBC-applicable low level mixed waste generated at ETEC is generated infrequently in minute quantities. Two other low level mixed wastes are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes.

The three CBC-applicable low level mixed wastes fall into two treatability groups which in turn correspond to two treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 6-1 for low level mixed wastes that will be generated after May 8, 1992. Treatability groups, waste codes, and existing inventories for the no longer generated mixed wastes are shown in Table 6-2.

The CBC-applicable transuranic mixed waste generated at ETEC is generated at a rate of 0.02 m^3/yr as shown in Table 6-3. While DOE Plans to store both low level and transuranic mixed wastes at ETEC during the extension period, DOE's long term management strategy for transuranic mixed waste is different than for low level mixed waste. As discussed in section II.A.2.b.(21), DOE Plans to store and manage all transuranic mixed waste at its facilities until such time as the WIPP is able to accept the wastes.

b. Demonstration 40 CFR 268.5(a)(6). ETEC has two storage facilities that will be able to accept containerized mixed waste. DOE states that these facilities have RCRA interim status. The name, building number, and design capacity for each container storage facility are listed in Table 6-4. The total design capacity of these facilities is 353 m^3.

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included both

CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 353 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 3.7 m^3; on May 8, 1993, 3.8 m^3; and on May 8, 1994, 3.9 m^3. DOE's evaluation shows that ETEC will have sufficient container storage capacity for the three CBC-applicable low level mixed wastes and one CBC-applicable transuranic mixed waste during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for ETEC.

TABLE 6-1.—ETEC CBC—APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 12: LLW Radioactive Lead Solids:			
LLW Lead	0.00	D008	Lead decontamination and recycle/macroencapsulation.
Subtotal	0.00		
Total (all treatability groups)	0.00		

Annual generation rate of 0.00 indicates minute quantities of this waste stream are generated on an infrequent basis.

TABLE 6-2.—ETEC CBC—APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 11: LLW Ignitable and/or Water Reactives:			
Sodium	D003	0.010	Oxidation (thermal or water reaction).
Subtotal		0.010	
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Lead and Asbestos (LLW)	D008	0.019	Lead decontamination and recycle/macroencapsulation.
Subtotal		0.019	
Total (all treatability groups)		0.029	

TABLE 6-3.—ETEC CBC—APPLICABLE TRANSURANIC MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes
Lead—TRU	0.02	D008
Subtotal	0.02	
Total	0.02	

TABLE 6-4.—ETEC MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Radioactive Material Disposal Facility (RMDF)	T075	55.74
Radioactive Material Disposal Facility (RMDF)	T621	297.29
Total		353.03

7. Feed Materials Production Center (FMPC): Fernald, Ohio

The Feed Materials Production Center (FMPC), located near Fernald, Ohio, was a large scale, integrated production facility that supplied uranium metal for use in the fabrication of fuel cores and target elements for nuclear reactors operated by the U.S. Department of Energy (DOE). The site was temporarily closed in July 1989; decisions to permanently close the site were subsequently taken. Currently, the site is undergoing extensive cleanup operations that, according to DOE, are expected to take 20 years to complete. FMPC is seeking extensions to the effective date for 48 CBC-applicable low level mixed wastes that are generated and stored at FMPC as shown in Tables 7-1 and 7-2.

a. *Waste stream and treatment information.* FMPC currently generates 16 CBC-applicable low level mixed wastes which have a combined generation rate of 586 m^3/yr. The other 32 low level mixed wastes are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes; FMPC does not generate

any CBC-applicable high level mixed wastes or transuranic mixed wastes.

The 48 CBC-applicable low level mixed wastes fall into eight treatability groups which in turn correspond to four treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 7–1 for low level mixed wastes that will be generated after May 8, 1992. Treatability groups, waste codes, and existing inventories for the no longer generated mixed wastes are shown in Table 7–2.

b. *Demonstration 40 CFR 268.5(a)(6).* FMPC has seven storage facilities that will be able to accept containerized mixed wastes. DOE states that these facilities have RCRA interim status and that they have a total design capacity of 12,085 m^3 as shown in Table 7–3.

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included both CBC-applicable and non-CBC-applicable mixed wastes.

TABLE 7–1.—FMPC CBC—APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%:			
Spent Enamel	1.00	D001	Incineration (followed by stabilization if necessary).
Aerosol Paint Cans, Non-Empty	0.00	D001	
Subtotal	1.00		
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Furnace Salt (D004, D006, D008, D010)	346.00	D004, D006, D008, D010	Stabilization.
Wet Sump Cake (D004, D006, D008)	16.00	D004, D006, D008	
Barium Chloride Salt	53.00	D005	
Dust Collector Residues (D008)	1.00	D008	
Scrap U308 II	16.00	D005, D010	
Sand Blast Paint Residues	112.00	D008	
Furnace Salt I	9.00	D005	
Drum Decontamination Residues	5.00	D006	
Scrap U308 (Dust Collector)	16.00	D005, D010	
Subtotal	574.00		
Treatability Group No. 13: LLW TC Metal Inorganic Solids Debris:			
Batteries, Flashlight/Beepers	0.00	D002, D006, D009	Inorganic debris treatment.
Mercury Spill Residue	2.00	D009, U151	
Mercury-Contaminated Material	1.00	D009	
Subtotal	3.00		
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
Oily Hilco Filter Cake and Merco Dry	5.00	D001	Incineration followed by stabilization.
Subtotal	5.00		
Treatability Group No. 4: LLW TC Metal Nonignitable Organic Liquid:			
Oily Sludge (D005, D008)	3.00	D005, D008	Incineration followed by stabilization.
Subtotal	3.00		
Total (All Treatability Groups)	586.00		

Annual generation rate of 0.00 indicates minute quantities of this waste stream are generated on an infrequent basis.

TABLE 7–2.—FMPC CBC—APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%:			
Acetonitrile in Water	D001	0.096	Incineration (followed by stabilization if necessary).
Barium Sulfate Filter Cake	D001,D005, D007	9.000	
Gasoline	D001,D018	0.267	
Leaded Gasoline	D001,D008, D018	3.700	
Paint Thinner (D001)	D001	0.400	
Waste Benzene	D001, D018	0.204	
Water/Gas Mixture (D001, D018, D008)	D001, D008, D018	3.700	
Water/Gas Mixture (D001, D018)	D001, D018	7.270	
Subtotal		24.637	
Treatability Group No. 2: LLW P&U Listed Organic Nonwastewaters:			
Spill Tetrachloroethylene	U210	0.310	Incineration.
Subtotal		0.310	

TABLE 7-2.—FMPC CBC—APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED—Continued

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 4: LLW TC Metal Nonignitable Organic Liquid:			
Used Oil (D005,D008)	D005, D008	2.290	Incineration followed by stabilization.
Water/Gas Mixture (D008, D018)	D008, D018	2.250	
Subtotal		4.540	
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
Dust Collector Bags	D006	1.500	Incineration followed by stabilization.
Pressure Treated Wood	D006	0.440	
Scrap Salts	D008	521.600	
TBP/Kerosene Semisolid (D001,2,7)	D001, D002, D007	2.900	
Unfired Reduction Charges	D001	0.025	
Subtotal		526.465	
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Barium Chloride Chrome Residue	D005, D007	16.000	Stabilization.
Contaminated Alumina-Soda Lime	D005	11.000	
Dust Collector Residues (D006)	D006	7.530	
Impure Thorium Nitrate	D007, D008	4.000	
Incinerator Cinders	D008	2.000	
Lab Packed Water and Samples	D007	0.070	
Samples, Non-Metallic, Misc.—Liquid	D005	0.350	
Samples, Non-Metallic, Misc.—Solids	D005	0.065	
Sump Cake with Free Liquids	D005, D007	12.000	
Tank 8 Cleanout Residues	D007	8.000	
Thorium Nitrate Solution	D007, D008	4.000	
U308 for Oxidation	D007	9.130	
U-Contaminated Water	D005	2.900	
Wet Sump Cake (D002, D006, D010)	D002, D006, D010	940.000	
Subtotal		1017.045	
Treatability Group No. 14: LLW TC Metal Soil:			
Contaminated Soil and Rocks	D006, D007	3,300	Stabilization.
Subtotal		3,300	
Treatability Group No. 16: LLW TC Metal Wastewaters:			
Used Developing/Fixing Solution	D011	0.380	Ion exchange.
Subtotal		0.380	
Total (all treatability groups)		1575.387	

TABLE 7-3.—FMPC MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Total (7 units)	NA	12,085.00

Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 12,085 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 3,459 m^3; on May 8, 1993, 4,151 m^3; and on May 8, 1994, 4,843 m^3. DOE's evaluation shows that FMPC will have sufficient container storage capacity for the 48 CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for FMPC.

8. FERMI National Accelerator Laboratory (FNAL); Batavia, Illinois

The FERMI National Accelerator Laboratory (FNAL) occupies a 10.6 square mile tract located west of Chicago. It is operated by the Universities Research Association, Inc. for the U.S. Department of Energy (DOE) and performs fundamental research in high-energy physics utilizing a series of proton accelerators. FNAL is seeking extensions to the effective date for three CBC-applicable low level mixed wastes streams that are generated and stored at FNAL as shown in Tabale 8-1.

a. *Waste stream and treatment information.* FNAL currently generates three CBC-applicable low level mixed wastes having a combined generation rate of 0.084 m^3/yr; FNAL does not generate any CBC-applicable high level mixed wastes or transuranic mixed wastes. The three CBC-applicable low level mixed wastes fall into two treatability groups which in turn correspond to three treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 8-1 for low level mixed waste that will be generated after May 8, 1992.

TABLE 8-1.—FNAL CBC-APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquid:			
Spent Ethyl Alcohol	0.080	001	Incineration (followed by stabilization if necessary).
Subtotal	0.080		
Treatability Group No. 13: LLW TC Metal Inorganic Solid Debris:			
Oxygen Sensors	*0.000	D008	Inorganic debris treatment.
Lead Coated Stainless Steel Rings	0.004	D008	
Subtotal	0.004		
Total (all treatability groups)	0.084		

* The generation rate of oxygen sensor is estimated to be five ounces/year. The quantity in storage at the end of 1990 was one ounce.

TABLE 8-2.—FNAL MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Hazardous Waste Storage Facility	WS-1	27.630

b. *Demonstration 40 CFR 268.5(a)(6).* FNAL has one storage facility that will be able to accept containerized mixed wastes. DOE has stated that the facility has a RCRA Part B permit. The name, building number, and design capacity for the container storage facility is listed in Table 8-2. The total design capacity of this facility is 27 m^3.

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included both CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 27 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 0.2 m^3; on May 8, 1993, 0.3 m^3; and on May 8, 1994, 0.4 m^3. DOE's evaluation shows that FNAL will have sufficient container storage capacity for the three CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for FNAL.

9. Hanford Site (Hanford); Richland, Washington

The Hanford facilities on the Hanford Site, located near Richland, Washington, were originally dedicated to the production of plutonium for national defense and management of wastes generated by chemical processing operations. Nine reactors and related facilities used for plutonium production are in the 100 Area. Chemical processing and radioactive, hazardous, and mixed wastes operations are centralized in the 200 Area. Laboratory research and development activities are, and fuel fabrication was, centralized in the 300 Area. The 400 Area is grouped with the 300 Area and is the location of the Fast Flux Treatment Facility (FFTF), where experiments in advanced reactor design are being carried out. Material receipt, warehousing, and vehicle maintenance activities are centralized in the 1100 Area. Hanford is seeking extensions to the effective date for 25 CBC-applicable low level mixed wastes and 13 CBC-applicable transuranic mixed waste streams that are generated and stored at Hanford as shown in Tables 9-1, 9-2, and 9-3.

a. *Waste stream and treatment information.* Hanford currently generates both CBC-applicable low level mixed wastes and transuranic mixed wastes; Hanford does not generate any CBC-applicable high level mixed wastes. Twenty four low level mixed wastes generated at Hanford have a combined generation rate of 57.55 m^3/yr. The other low level mixed waste is classified as CBC-applicable even though DOE projects it will not be generated after May 8, 1992. The reason for including this mixed waste is that DOE believes it may need to be managed in a manner that constitutes removal from storage during the extension period and therefore becomes subject to the LDR storage prohibition. This mixed waste is referred to as no longer generated mixed waste.

The 25 CBC-applicable low level mixed wastes fall into nine treatability groups which in turn correspond to five treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 9-1 for the low level mixed wastes that will be generated after May 8, 1992. Treatability groups, waste codes, and existing inventories for the no longer generated mixed waste are shown in Table 9-2.

The 13 CBC-applicable transuranic mixed wastes generated at Hanford are listed in Table 9-3 and have a combined generation rate of 42.32 m^3/yr. While DOE plans to store both low level and transuranic mixed wastes at Hanford during the extension period, DOE's long-term management strategy for transuranic mixed wastes is different than for low level mixed wastes. As discussed in section II.A.2.b.(21), DOE plans to store and manage all transuranic mixed wastes at Hanford, until such time as the WIPP is able to accept the wastes.

b. *Demonstration 40 CFR 268.5(a)(6).* Hanford has 11 storage facilities that will be able to accept containerized mixed wastes. DOE states that these facilities have RCRA interim status. The

name, building number, and design capacity for each container storage facility are listed in Table 9-4. The total design capacity of these facilities is 24,837 m^3.

TABLE 9-1.—HANFORD CBC—APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%:			
Ignitable Liquids—TOC > 10%	0.120	D001	Incineration (followed by stabilization if necessary).
Subtotal	0.120		
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
TC Metal Sludges/Dry Particulate	0.230	D001, D002, D007, D011	Stabilization.
TC Metal Sludges/Dry Particulate (As)	0.070	D002, D004, D005, D010	
TC Metal Sludges/Dry Particulate (Hg)	4.430	D001, D002, D005, D006, D007, D008, D009, D010, D011	
Mercury Sludges/Dry Part. (Hg > 260mg/kg)	0.010	D002, D009	
Non-TC Metal/Solvent Sludges/Dry Part.	1.990	D001, D002	
Subtotal	6.730		
Treatability Group No. 13: LLW TC Metal Inorganic Solid Debris:			
TC Metal Inorganic Solid Debris	2.870	D002, D007, D008	Inorganic Debris Treatment.
TC Metal Inorganic Solid Debris (Hg)	0.330	D002, D003, D006, D009	
TC Metal Inorg Glass Solid Debris (Hg)	1.170	D005, D006, D009	
Radioactive Glass Lead Solids	0.180	D008	
Purex Tunnels Silver Waste	0.010	D001, D011	
Non-TC Metal/Solvent Inorg Solid Debris	0.460	D001, D002	
Subtotal	5.020		
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
TC Metal Organic Solid Debris	6.210	D001, D002, D005, D006, D007, D008, D010	Incineration followed by stabilization.
TC Metal Organic Solid Debris (Hg)	0.180	D009	
Non-TC Metal/Solvent Org Solid Debris	1.380	D001, D002, D003	
Subtotal	7.770		
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Purex Canyon Lead Waste	0.080	D008	Lead Decontamination and recycle/ macroencapsulation.
Radioactive Lead Solids	33.130	D002, D003, D007, D008	
Lead Acid Batteries	0.180	D008	
Subtotal	33.390		
Treatability Group No. 5: LLW LDR Appendix IV Labpacks:			
Appendix IV Labpacks	0.240	D001, D002, D003	Incineration followed by stabilization if necessary.
Subtotal	0.240		
Treatability Group No. 5: LLW LDR Appendix V Labpacks:			
Appendix V Labpacks	1.140	D001	Incineration.
Subtotal	1.140		
Treatability Group No. 14: LLW TC Metal Soil:			
TC Metal Soil	0.090	D006, D007, D011	Stabilization
Non-TC Metal/Solvent Soil	0.090	D001	
Subtotal	0.180		
Treatability Group No. 11: LLW Water Reactives:			
Alkali Metal Waste (LSA)	0.210	D001, D003	Oxidation (thermal, water reaction).
Subtotal	0.210		
Treatability Group No. 7: LLW RMW PCB Solids 50 ppm < PCB < 500 ppm:			
TC Metal Inorganic Solid Debris (Hg, PCB)	2.750	D006, D009	Incineration (followed by stabilization if necessary).
Subtotal	2.750		
Total (all treatability groups)	57.550		

TABLE 9-2.—HANFORD CBC—APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatement technology
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
183-H Solar Basin Waste, Type 3	D001	666.600	Stabilization.

TABLE 9-2.—HANFORD CBC—APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED—Continued

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatement technology
Subtotal		666.600	
Total (all treatability groups)		666.600	

TABLE 9-3.—HANFORD CBC—APPLICABLE TRANSURANIC MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes
TC Metal Inorganic Solid Debris, TRU	2.700	D006,D007,D008
TC Metal Inorganic Solid Debris, TRU (Hg)	2.280	D005,D006, D007, D008, D009
TC Metal Inorg Solid Debris, TRU (Hg, PCB)	18.910	D006, D008, D009
TC Metal Organic Solid Debris, TRU	7.740	D002, D007, D008
TC Metal Organic Solid Debris, TRU (Hg)	0.180	D005, D006, D007, D008, D009
TC Metal Org Solid Debris, TRU (Hg, PCB)	0.910	D006, D008, D009
NON-TC Met/Solvent ORG Solid Debris, TRU	1.270	D002
LEAD Acid Batteries, TRU	0.180	D002, D007, D008
LEAD Acid Batteries, TRU (Hg)	0.120	D002, D005, D006, D007, D008, D009
Radioactive Lead Solids, TRU	7.690	D001, D007, D008
Radioactive Lead Glass Solids, TRU	0.120	D008
Radioactive Lead Solids, TRU (Hg)	0.060	D006, D008, D009
Radioactive Lead Solids, TRU (LB)	0.160	D006, D008, P015
Subtotal	42.320	

TABLE 9-4.—HANFORD MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Buildng number	Design capacity (m^3)
Central Waste Complex	None	22,710.00
Retrievable Storage Units	None	[a] 1,532.25
Trusaf	224-T	416.00
4843 Alkali Metal Storage Facility	4843	83.50
Purex Tunnel 1	218-E-15	[a]0.02
Purex Tunnel 2	218-E-14	[b]1.00
222-S Permitted Storage	222S/200W	12.50
305-B Storage Facility	305-B	20.00
B-Plant Container Storage	221-B	51.00
332 Storage Facility	332	6.80
304 Concretion Facility Storage Pad	304	4.16
Total		24,837.23

[a] Capacity. Facility will not be accepting any new mixed waste.
[b] Capacity. Facility will contain a very small (1.00m^3) amount by May 1994.

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 24,837 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 2,652 m^3; on May 8, 1993, 2,824 m^3; and on May 8, 1994, 2,996 m^3. DOE's evaluation shows that Hanford will have sufficient container storage capacity for the 25 CBC-applicable low level mixed wastes and 13 CBC-applicable transuranic mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for Hanford.

10. Idaho National Engineering Laboratory (INEL); Idaho Falls, Idaho

The Idaho National Engineering Laboratory (INEL) was established in 1949 as a center where nuclear power reactors and support facilities could be built, tested, and operated. INEL covers 890 square miles and is 22 miles west of Idaho Falls. Fifty-two reactors have been built at INEL, of which 14 are still operable. The pressurized water reactor and boiling water reactor, as well as nuclear propulsion plants for the U.S. Navy, have been prototyped at INEL. Current major programs at INEL include water reactor safety, materials and fuels testing, nuclear fuel reprocessing, high level mixed wastes calcining, breeder and naval reactor operation and research, management of hazardous low level and transuranic mixed wastes, and

manufacturing tank armor. RCRA-regulated wastes are generated, treated, and stored at the site.

INEL is seeking extensions to the effective date for 41 CBC-applicable low level mixed wastes, four CBC-applicable transuranic mixed wastes, and two CBC-applicable high level mixed wastes as shown in Tables 10–1 through 10–6.

a. *Waste stream and treatment information.* INEL currently generates 20 CBC-applicable low level mixed wastes having a combined generating rate of 57.08 m^3. The other 20 low level mixed wastes are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes.

The 40 CBC-applicable low level mixed wastes fall into nine treatability groups which in turn correspond to six treatment technologies. Treatability groups, generation rates, and waste codes are shown in Tables 10–1 and 10–3 for low level mixed wastes being generated. Treatability groups, waste codes, and existing inventories for no longer generated mixed wastes are shown in Table 10–2.

In addition to the 40 low level mixed wastes mentioned above, INEL generates the only low level mixed waste, a P & U Listed RAD Contaminated Condensate mixed waste, which will be disposed of via a surface impoundment. This mixed waste is in Treatability Group 18, and the corresponding technology-based treatment standard for this mixed waste is treatment by either incineration, wet air, or chemical oxidation followed by carbon adsorption. DOE's extension request applies only to the portion of the P & U Listed RAD Contaminated Condensate mixed waste generated after the May 8, 1992, LDR effective date.

DOE currently is disposing of this mixed waste without accumulating it and does not currently have any of this mixed waste in storage. However, after September 23, 1992, DOE states it plans to cease the disposal of this mixed waste in the surface impoundment and place it in storage with the high level mixed wastes. Storage requirements are discussed below in section b. EPA has evaluated the surface impoundment under Demonstration 40 CFR 268.5(a)(7) in section C.7.

The two CBC-applicable transuranic mixed wastes generated and the two no longer generated transuranic mixed wastes at INEL are listed in Tables 10–4 and 10–5. The combined generation rate of all CBC-applicable transuranic mixed wastes at INEL is 11.28 m^3. While DOE plans to store both low level and transuranic mixed wastes at INEL during the extension period, DOE's long-term management strategy for transuranic mixed wastes is different than for low level mixed wastes. As discussed in section II.A.2.b.(21), DOE plans to store and manage all transuranic mixed wastes at INEL, until such time as the WIPP is able to accept the wastes.

The two CBC-applicable high level mixed wastes generated at INEL are listed in Table 10–6. Each of the two CBC-applicable high level mixed wastes constitutes its own treatability group. The first mixed waste, high level liquid waste, is generated from the reprocessing of spent Navy nuclear fuel. Liquid high level mixed waste generated directly from fuel reprocessing exhibits the characteristics of corrosivity and toxicity due to TC metals. This acidic liquid high level mixed waste is accumulated in storage tanks for treatment at the INEL high level mixed waste calciner. The calciner converts the acidic liquid to a solidified form which is placed in interim storage pending final treatment and disposal. The generation rate for this high level mixed waste is 2,500 m^3/yr. This stream exhibits both California List and Third Third characteristics. Treatment by calcination removes the California List characteristics, but the Third Third constituents, TC metals, remain in the treated waste. Treatment for the TC metals is not projected to be available by the May 8, 1992, LDR effective date.

The second high level mixed waste, high level waste calcine, is generated from the calcination of the high level liquid waste described above. This mixed waste exhibits the characteristic of toxicity due to metals and, therefore, is addressed in this application. The generation rate for this high level mixed waste is 465 m^3.

b. *Demonstration 40 CFR 268.5(a)(6).* INEL currently utilizes four different storage methods to manage the low level, transuranic, and high level mixed wastes: Containers, high-efficiency particulate air (HEPA) filter storage facilities, high level mixed waste tanks, and calcine bins. The storage capacities provided by these storage methods are discussed in greater detail below.

DOE has supplied information in its application showing that INEL has seven storage facilities that will be able to accept low level and transuranic containerized mixed wastes including containerized mixed waste from the Naval Reactor Facility. DOE states that these facilities have RCRA interim status. The name, building number, and design capacity for each container storage facility are listed in Table 10–7. The total design capacity of these facilities is 226,240 m^3.

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes, respectively, at INEL. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Non-CBC-applicable mixed wastes have been factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available container storage capacity.

Against a total storage capacity of 226,240 m^3, DOE stated the low level and three of the transuranic mixed waste inventories to be on May 8, 1992, 63,973 m^3; on May 8, 1993, 64,051 m^3; and May 8, 1994, 64,128 m^3. DOE's evaluation shows that INEL will have sufficient container storage capacity for 40 CBC-applicable low level and three transuranic mixed wastes during the course of the extension period and the anticipated extension renewal period.

One CBC-applicable transuranic mixed waste, HEPA filters, is managed in four specially designed, dedicated units for which DOE states it has RCRA interim status. The name, builidng number, and design capacity for each HEPA Filter storage facility are listed in Table 10–8. The total design capacity of these facilities is 167 m^3.

In the application, DOE has provided information on the generation rates and stored inventories of the CBC-applicable mixed wastes stored in the HEPA filter storage facility. DOE stated that it has 167 m^3 of storage for HEPA filters in comparison with inventories on May 8, 1992, 15.9 m^3; on May 8, 1993, 16.5 m^3; and on May 8, 1994, 17.2 m^3. No competition for storage capacity is involved at this facility since no other mixed wastes (CBC-applicable or non-CBC-applicable) will be stored in this facility. DOE's evaluation shows that INEL will have sufficient HEPA filter storage capacity for this CBC-applicable transuranic mixed waste stored during the course of the extension period (May 8, 1992 to May 8, 1993) and the

anticipated extension renewal period (May 8, 1993 to May 8, 1994).

One of the two CBC-applicable high level mixed wastes at INEL, the high level liquid waste, will be managed in a 19-unit high level mixed wastes tank storage facility. The identification number and design capacity for each high level mixed waste tank unit are presented in Table 10–9. The total design capacity of this facility is 13,368 m^3. In the application, DOE has provided information on the generation rates and stored inventories of the high level liquid waste.

In addition, as stated above, DOE plans to cease disposal of the P & U Listed RAD Contaminated Condensate mixed waste by September 23, 1992. DOE then plans to pretreat the stream to reduce its volume and place the concentrated waste in interim storage in the INEL high level tank facility. The concentrated waste will be further treated by calcination to remove the corrosive characteristic of the waste; DOE will then place the calcined waste in the calcine bin storage facility. The quantity of calcined waste to be placed into storage is not projected by DOE to increase as a result of this process. However, the available storage capacity in the INEL high level tank facility will be affected by the storage of the volume-reduced concentrated P & U Listed RAD Contaminated Condensate mixed waste.

For the high level liquid waste, DOE states that the storage capacity for the high level tanks is 13,368 m^3. Inventories are projected on May 8, 1992, to be 7,319 m^3; on May 8, 1993 to be 9,819 m^3; and on May 8, 1994 to be 12,618 m^3. DOE's evaluation shows that INEL will have sufficient high level mixed waste tank storage capacity for the CBC-applicable high level liquid mixed waste during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

The other of the two CBC-applicable high level mixed wastes at INEL, the high level calcine waste, will be managed in a seven-unit calcine bin storage facility. DOE states this facility has RCRA interim status. The identification number and design capacity for each calcine bin storage unit are presented in Table 10–10.

TABLE 10–1.—INEL CBC–APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%:			
Spent Stoddard Solvent	0.22	D001, D006, D007, D008	Incineration (followed by stabilization if necessary).
Subtotal	0.22		
Treatability Group No. 13: LLW TC Metal Inorganic Solid Debris:			
Laboratory Equipment and Debris	0.42	D004, D005, D006, D007, D008, D009, D0011	Inorganic Debris Treatment.
Contaminated Cadmium Sheeting	10.00	D006	
Subtotal	10.42		
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
Cadmium and Chromium Contaminated Solids	0.28	D006, D007	Incineration followed by stabilization.
Cadmium Contaminated Solids	0.34	D006	
Chromium and Lead Contaminated Solids	0.08	D007, D008	
Cadmium, Mercury and Selenium Contaminated Solids	0.06	D006, D009, D010	
WERF HEPA Filters with Lead	0.90	D006,D008	
Mercury Contaminated Solids	1.40	D009	
Mercury Contaminated Solids Shielded with Lead	1.83	D008, D009	
Subtotal	4.89		
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Radioactive Contaminated Lead	25.20	D008	Lead Decontamination and Recycle/ Macroencapsulation.
Radioactively Contaminated Lead	9.57	D008	
Lead Acid Batteries, Radioactive	0.33	D008	
Subtotal	35.10		
Treatability Group No. 5: LLW LDR Appendix IV Labpacks and LLW LDR Appendix V Labpacks:			
Chromium Trioxide Wastes	0.02	D007	Incineration followed by stabilization.
Miscellaneous Lab Wastes	0.02	D001, D003, D006, D007, D008, D010	
Subtotal	0.04		
Treatability Group No. 4: LLW TC Metal Nonignitable Organic Liquid:			
Spent GM 141 SAPC Solvent	2.00	D001, D006, D007, D008	Incineration followed by stabilization.
Heavy Metal Contaminated Oil, Radioactive	0.20	D007, D008	
Low-Level Lab Waste (Alpha Contaminated)	0.21	D006, D007, D008, D009	
Subtotal	2.41		
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Non-Acidic Waste Solids	4.00	D008, D010	Stabilization.
Subtotal	4.00		
Treatability Group No. 11: LLW Water Reactives:			
Aluminum Fines with Sodium Hydroxide	*0.00	D003	Oxidation (Thermal, Water Reaction).
Subtotal	0.00		
Total (all treatability groups)	57.08		

* Waste is no longer generated and was treated to remove reactive characteristic. Stream is included pending results of lab analysis to verify complete removal of characteristic.

TABLE 10-2.—INEL CBC-APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids-TOC > 10%:			
TRA Lab Scintillation Cocktails	D001	0.210	Incineration (followed by stabilization if necessary).
Subtotal		0.210	
Treatability Group No. 5: LLW LDR Appendix IV Labpacks:			
TAN 629 Tank Bottoms Sludge	D001, D006, D007, D008	0.020	Incineration followed by stabilization.
Subtotal		0.020	
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
HNO3 and Lead Contaminated Filters	D002, D008, D010	3.400	Incineration followed by stabilization.
Mercury & Cadmium Contaminated Solids	D006, D009	0.200	
HTRE-3 Spill Clean-Up Material	D009	1.040	
Rad. & Lead Contaminated Debris	D008	0.060	
Subtotal		4.700	
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
HTRE-3 Contaminated Concrete Waste	D009	5.600	Stabilization.
Solidified WERF Ash	D006, D008	0.830	
TAN/IET Hot Waste Sludge	D009	2.300	
Absorbed LLW Liquids	D001, D002	318.000	
TAN Decon Heavy Metal Solids and Debris	D005, D006, D007, D008, D009, D011	0.320	
ISV Wastewater	D006	1.450	
Subtotal		328.500	
Treatability Group No. 11: LLW Ignitable and/or Water Reactives:			
Aluminum Fines Mixed W/Diatomite	D001, D003	2.500	Deactivation.
Aluminum Sludge Mixed W/Vermiculite	D001, D003	4.400	
S1G Sodium	D001, D009	0.250	
EBR I NAK	D001	0.680	
Subtotal		7.830	
Treatability Group 13: LLW TC Metal Inorganic Solid Debris:			
BA and CD Calibration Sources	D005, D006	0.004	Inorganic debris treatment.
Radioactive Sources LLW	D006	9.000	
Subtotal		9.004	
Treatability Group No. 16: LLW TC Metal Wastewaters:			
TAN 726 Waste	D006, D009	102.000	ION exchange.
IET Liquid Waste	D006, D009	0.420	
Subtotal		102.420	
Total (all Treatability Groups)		452.684	

TABLE 10-3.—INEL CBC-APPLICABLE P&U LISTED RAD CONTAMINATED CONDENSATE LOW LEVEL MIXED WASTE

TREATABILITY GROUP NO. 18: LLW UNQUANTIFIABLE P&U LISTED ORGANIC WASTEWATERS—C, N, O				
DOE site	Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
INEL	P&U listed RAD contaminated condensate	11,060.00	F001, F002, F005, P022, P024, P028, P030, P073, P098, P104, P105, P106, P113, P116, P119, P120, U002, U003, U004, U007, U008, U012, U014, U019, U031, U032, U037, U044, U055, U056, U057, U070, U080, U083, U102, U103, U108, U112, U113, U122, U123, U133, U134, U138, U140, U144, U151, U154, U159, U161, U162, U165, U169, U170, U171, U182, U188, U196, U201, U204, U208, U210, U211, U215, U217, U218, U219, U220, U225, U226, U227, U228, U239, U328	Wet air oxidation or chemical oxidation followed by carbon adsorption or incineration.
	Subtotal	11,060.00		
	TOTAL (ALL TREATABILITY GROUPS)	11,060.00		

TABLE 10-4.—INEL CBC-APPLICABLE TRANSURANIC MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes
Hepa Filters	0.68	D005, D006, D007, D008, D009, D011
Heavy Metal Catch Tank Sludge	10.60	D006, D007, D008, D009, D011
Subtotal	11.28	
Total	11.28	

TABLE 10-5.—INEL CBC-APPLICABLE TRANSURANIC MIXED WASTE NO LONGER GENERATED

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Inventory as of May 8, 1992
Absorbed TRU Liquids	0.000	D001, D002	538.000
Radioactive Sources TRU	0.000	D008	9.000
Total			547.000

TABLE 10-6.—INEL CBC-APPLICABLE HIGH LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes
High-level waste calcine	465.00	D005, D006, D007, D008, D009, D011
High-level liquid waste	2,500.00	D005, D006, D007, D008, D009, D010, D012
Subtotal	2,965.00	
Total	2,965.00	

TABLE 10-7.—INEL MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Container storage area	TAN 628	49.00
Haz. chemical & rad. waste storage	CPP 1619	46.00
Rad mixed waste storage facility	CPP 1617	510.00
Mixed waste storage facility (includes portable storage units)	PER 613	365.00
RWMC	TSA 1, TSA R, TSA 2, TSA 3, ILTSF, waste storage facility	224,900.00
WERF waste storage facility	PER 626	266.00
Tan 647 prepp storage	TAN 647	104.00
Total		226,240.00

TABLE 10-8.—INEL HEPA FILTER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
NWCF HEPA filter storage	CPP 659	56.00
Fast HEPA filter storage	CPP 666	25.00
NWCF HEPA filter waste pile	CPP 659	85.00
Waste calcining facility HEPA filter storage	CPP 633	1.00
Total		167.00

TABLE 10-9.—INEL HIGH LEVEL MIXED WASTE STORAGE TANKS

Facility name	Building No.	Design capacity (m^3)
High-level waste tank	WM 100	70.00
High-level waste tank	WM 101	70.00
High-level waste tank	WM 102	70.00
High-level waste tank	WM 103	114.00
High-level waste tank	WM 104	114.00
High-level waste tank	WM 105	114.00
High-level waste tank	WM 106	114.00

TABLE 10-9.—INEL HIGH LEVEL MIXED WASTE STORAGE TANKS—Continued

Facility name	Building No.	Design capacity (m^3)
High-level waste tank	WM 180	1,204.00
High-level waste tank	WM 181	1,204.00
High-level waste tank	WM 182	1,136.00
High-level waste tank	WM 183	1,136.00
High-level waste tank	WM 184	1,136.00
High-level waste tank	WM 185	1,136.00
High-level waste tank	WM 186	1,136.00
High-level waste tank	WM 187	1,136.00
High-level waste tank	WM 188	1,136.00
High-level waste tank	WM 189	1,136.00
High-level waste tank	WM 190	1,136.00
High-level waste tank	WL 101	70.00
Total		13,368.00

TABLE 10-10.—INEL HIGH LEVEL MIXED WASTE CALCINE BIN STORAGE FACILITIES

Facility Name	Building No.	Design capacity (m^3)
Calcine solid storage facility	CPP 729	221.00
Calcine solid storage facility	CCP 742	918.00
Calcine solid storage facility	CCP 746	1,132.00
Calcine solid storage facility	CCP 760	501.00
Calcine solid storage facility	CCP 765	1,000.00
Calcine solid storage facility	CCP 791	1,558.00
Calcine solid storage facility	CCP 795	1,784.00
Total		7,114.00

In the application, DOE has provided information on the generation rates and stored inventories of the high level calcine waste. For the calcine bins, DOE stated the capacity to be 7,114 m^3. Inventories are projected to be on May 8, 1992, 4239 m^3; on May 8, 1993, 4,704 m^3; and on May 8, 1994, 5,169 m^3. DOE's evaluation shows that INEL will have sufficient calcine bin storage capacity for this CBC-applicable high level calcine mixed waste during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for INEL.

11. Inhalation Toxicology Research Institute (ITRI); Albuquerque, New Mexico

The Inhalation Toxicology Research Institute (ITRI) is located on Kirkland Air Force Base near the southern site boundary on DOE-managed property. ITRI conducts short-term and long-term inhalation exposure studies of the effects of various toxic and carcinogenic substances. The ITRI facility consists of laboratories, sanitary sewage lagoons, and inactive radioactive waste management units. ITRI is seeking an extension to the effective date for one no longer generated CBC-applicable low level mixed waste stream accumulated at ITRI as shown in Table 11-1.

TABLE 11-1.—ITRI CBC-APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 1: LLV Ignitable Liquids—TOC >10%			
Radioactive toxics waste	D001	0.900	Incineration (followed by stabilization if necessary)
Subtotal		0.900	
Total (all treatability groups)		0.900	

a. *Waste stream and treatment information.* ITRI currently manages one CBC-applicable low level mixed waste which is considered CBC-applicable even though DOE projects it will not be generated after May 8, 1992. The reason for including this mixed waste is that DOE believes it may need to be managed in a manner that constitutes removal from storage during the extension period and therefore becomes subject to the LDR storage prohibition. This mixed waste is referred to as no longer generated mixed waste; ITRI does not currently manage any CBC-applicable high level mixed wastes or transuranic mixed wastes. As shown in Table 11-1, the one CBC-applicable low level mixed waste falls into one treatability group which in turn corresponds to one treatment technology.

b. *Demonstration 40 CFR 268.5(a)(6).* DOE states that ITRI is not a treatment, storage, and disposal facility; it is regulated under RCRA as a generator only. ITRI has shipped its CBC-applicable mixed waste to a commercial vendor who is planning to treat the waste to separate the radiological and hazardous (i.e., ignitable) components. If successful, ITRI will be able to manage the radiological component as a

nonhazardous low level mixed waste and manage the hazardous component as a nonradioactive waste in commercial treatment facilities. Under such circumstances, no on-site storage is necessary for this mixed waste. DOE is seeking a case-by-case extension for ITRI in the event the planned separation is unsuccessful. As a contingency measure, DOE plans to utilize other sites that have adequate capacity to store ITRI's CBC-applicable mixed waste during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Since the volume of CBC-applicable mixed waste accumulated at this site is relatively small and since DOE has shown that it has excess capacity at a number of the other sites to store this mixed waste, EPA believes DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for ITRI.

12. K–25 Plant (K–25); Oak Ridge, Tennessee

K–25 occupies a 1,500-acre site adjacent to the Clinch River, approximately 10 miles west of downtown Oak Ridge, Tennessee. The primary function of K–25, until August 1985, was the enrichment of uranium (in the form of uranium hexafluoride) in the uranium-235 isotope for use as fuel in nuclear plants. K–25 now has a multi-purpose mission that includes being the location of many contractor central staff functions, operating waste treatment facilities, serving as center for applied waste treatment facilities, serving as a center for applied technology, and supporting the development of the Advanced Vapor Laser Isotope Separation uranium enrichment technology. K–25 is seeking an extension to the effective date for five CBC-applicable low level mixed waste streams that are generated and stored at K–25 as shown in Tables 12–1 and 12–2.

a. *Waste stream and treatment information.* K–25 currently generates one CBC-applicable low level mixed waste having a generation rate of 4.0 m^3/yr. The other four low level mixed wastes are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes; K–25 does not currently generate any CBC-applicable high level mixed wastes or transuranic mixed wastes.

The five CBC-applicable low level mixed wastes fall into five treatability groups which in turn correspond to three treatment technologies. The treatability groups, generation rates, and waste codes are shown in Table 12–1 for low level mixed wastes that will be generated after May 8, 1992. Treatability groups, waste codes, and existing inventories for the no longer generated mixed wastes are shown in Table 12–2.

b. *Demonstration 40 CFR 268.5(a)(6).* K–25 has 17 storage facilities that will be able to accept containerized mixed wastes. DOE states that these facilities have RCRA interim status. The name, building number, and design capacity for each container storage facility are listed in Table 12–3. The total design capacity of these facilities is 38,165 m^3.

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its application, DOE also stated that one mixed waste, wastewater treatment spent carbon, is generated at DOE facility Y–12 and transported to K–25 for storage. In evaluating storage capacity for K–25, DOE has included the volume of this mixed waste (217 m^3/yr). The evaluations below include this volume.

TABLE 12–1.—K–25 CBC—Applicable Low Level Mixed Waste

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
TSCA INCINERATOR ASH *	4.00	D004, D005, D006, D007, D008, D009, D010, D011, F001, F002, F003, F004, F005	Stabilization.
Subtotal	4.00		
Total (all treatability groups)	4.00		

* This waste stream meets the LDR treatment standards for F001 through F005 solvents.

TABLE 12–2.—K–25 CBC—Applicable Low Level Mixed Waste No Longer Generated

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 7: LLW RSW PCB Solids—50 < PCS < 500: PCB Contaminated Soils with Mercury	D009, U151	20.040	Incineration (followed by stabilization if necessary.
Subtotal		20.040	
Treatability Group No. 9: LLW F006, F007, F008, F009 Wastewaters: K-1407 B & C Pond Sludges	F006	30227.000	Stabilization.
Subtotal		30227.000	
Treatability Group No. 14: LLW TC Metal Soil: Mercury Contaminated Soil	D009	230.000	Stabilization.

TABLE 12-2.—K-25 CBC—Applicable Low Level Mixed Waste No Longer Generated—Continued

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Subtotal		230.000	
Treatability Group No. 12: LLW Radioactive Lead Solids: Y12 Radiogenic Lead Waste	D008	5.000	Lead decontamination and recycle/Macroencapsulation.
Subtotal		5.000	
Total (all treatability groups)		30462.04	

TABLE 12-3.—K-25 Mixed Waste Container Storage Facilities

Facility name	Building No.	Design capacity (m^3)
Concrete Block Casting and Storage	K-1417	30,110.00
Hazardous Waste Storage Facility	K-711	375.00
K-301-1 Hazardous Waste Storage Unit	K-301-1	416.40
K-301-2 Hazardous Waste Storage Unit	K-301-2	416.40
K-301 Vault 4A Hazardous Waste Stor	K-301	416.40
K-302-5 Hazardous Waste Storage Unit	K-302-5	850.00
K-303-1 Hazardous Waste Storage Unit	K-303-1	600.00
K-305 Vault 19&19B Hazardous Waste	K-305	1,740.00
K-306-1 PCP/Hazardous Waste Storage	K-306	240.00
K-306-3 Hazardous Waste Storage Unit	K-306-3	400.00
K-306-4 Hazardous Waste Storage Unit	K-306-4	500.00
K-306 Vault 23A Hazardous Waste Stor.	K-306	936.80
K-309 Vault 2A Hazardous Waste Stor.	K-309	397.00
K-310-1 Hazardous Waste Storage Unit	K-310-1	600.00
K-311-1 Radiogenic Lead Storage	K-311-1	13.00
K-1302 Cylinder Storage	K-1302	4.00
K-1036A Waste Oil Storage Unit	K-1036A	150.00
Total		38,165.00

In its evaluation of the required storage capacity, DOE included both CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes (including the one mixed waste from Y-12) are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 38,165 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 33,504 m^3; on May 8, 1993, 34,040 m^3; and on May 8, 1994, 34,577 m^3. DOE's evaluation shows that K-25 will have sufficient container storage capacity for the six (including one from Y-12) CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for K-25.

13. Kansas City Plant (KCP); Kansas City, Missouri

The Kansas City Plant (KCP) is part of the Bannister Federal Complex located 9 miles south of downtown Kansas City, Missouri. The facility occupies approximately 136 acres, with the manufacturing operations housed in 3.2 million square feet of building space. KCP is the major producer of non-nuclear components for nuclear weapons. These include electrical/electronic, mechanical, and plastic products. Miniature electrical components include cables, printed wiring boards, transformers, coils, and microelectronic devices. KCP also stores spare parts for nuclear weapons systems. Major KCP processes include soldering, welding, bonding, lasers, robotics, cleaning, wire/sleeving preparation, encapsulation, major fabrication, semiconductor, packing, machinery, plating and surface finishing, painting and special coatings, and molding and manufacture of special chemicals. KCP is seeking extensions to the effective date for three CBC-applicable low level mixed waste streams generated and stored at KCP as shown in Table 13-1.

a. *Waste stream and treatment information.* KCP currently generates three CBC-applicable low level mixed wastes having a combined generation rate of 0.82 m^3/yr; KCP does not generate any CBC-applicable high level mixed wastes or transuranic mixed wastes. As shown in Table 13-1, the three CBC-applicable low level mixed wastes fall into two treatability groups which in turn correspond to two treatment technologies.

b. *Demonstration 40 CFR 268.5(a)(6).* KCP has one storage facility that will be able to accept containerized mixed wastes. DOE states that this facility has RCRA interim status. The name, building number, and design capacity for the container storage facility is listed in Table 13-2. The total design capacity of this facility is 22 m^3.

TABLE 13-1.—KCP CBC-APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 13: LLW TC Metal Inorganic Solid Debris:			
Electronic Assemblies (Classified)	0.10	D008, D011	Inorganic debris treatment.
Electronic Assemblies (Unclassified)	0.42	D008, D011	
Subtotal	0.52		
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Equipment Sources in Lead Pigs	0.30	D008	Lead Decontamination and Recycle/ Macroencapsulation.
Subtotal	0.30		
Total (all treatability groups)	0.82		

TABLE 13-2.—KCP MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Excess and Reclamation Radioactive Waste	Test Cell #11	22.48

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 22 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 6.2 m^3; on May 8, 1993, 7.0 m^3; and on May 8, 1994, 7.8 m^3. DOE's evaluation shows that KCP will have sufficient container storage capacity for the three CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for KCP.

14. Knolls Atomic Power Laboratory—Kesselring Site (KAPL-KS); West Milton, New York

The Knolls Atomic Power Laboratory—Kesselring Site (KAPL-KS) is operated by the Westinghouse Electric Corporation for the U.S. Department of Energy (DOE) and is engaged in the design and development of Naval nuclear propulsion reactors. KAPL-KS is seeking extensions to the effective date for two CBC-applicable low level mixed waste streams that are generated and stored at KAPL-KS as shown in Table 14-1.

a. *Waste stream and treatment information.* KAPL-KS generates two CBC-applicable low level mixed wastes having a combined generation rate of 0.35 m^3/yr; KAPL-KS does not currently generate any CBC-applicable high level mixed wastes or transuranic mixed wastes. As shown in Table 14-1, the two CBC-applicable low level mixed wastes fall into two treatability groups which in turn correspond to two treatment technologies.

b. *Demonstration 40 CFR 268.5(a)(6).* KAPL-KS has one storage facility that will be able to accept containerized mixed waste. DOE states that this facility has RCRA interim status. The name, building number, and design capacity for the container storage facility is listed in Table 14-2. The total design capacity of this facility is 20 m^3.

TABLE 14-1.—KAPL-KS CBC-APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Lead Solids	0.30	D008	Lead decontamination and recycle/macroencapsulation.
Subtotal	0.30		
Treatability Group No. 13: LLW TC Metal Inorganic Solid Debris:			
Solid Debris	0.05	D006, D007, D008, D009, D011	Inorganic debris treatment.
Subtotal	0.05		
Total (all treatability groups)	0.35		

TABLE 14-2.—KAPL-KS MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Mixed Waste Storage Facility	Radioactive Waste Facility	20.50
Total		20.50

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). KAPL-KS does not generate any non CBC-applicable mixed waste.

Against a total storage capacity of 20 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 0.5 m^3; on May 8, 1993, 0.9 m^3; and on May 8, 1994, 1.2 m^3. DOE's evaluation shows that KAPL-KS will have sufficient container storage capacity for the two CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for KAPL-KS.

15. Knolls Atomic Power Laboratory (KAPL); Niskayuna, New York

The Knolls Atomic Power Laboratory (KAPL) is operated by the Westinghouse Electric Corporation for the U.S. Department of Energy (DOE) and is engaged in the design and development of Naval nuclear propulsion reactors. KAPL is seeking extensions to the effective date for two CBC-applicable low level mixed waste streams that are generated and stored at KAPL as shown in Table 15-1.

a. *Waste stream and treatment information.* KAPL anticipates generating two CBC-applicable low level mixed wastes having a combined generation rate of 0.10 m^3/yr; KAPL does not currently generate any CBC-applicable high level mixed wastes or transuranic mixed wastes. As shown in Table 15-1, the two CBC-applicable low level mixed wastes fall into two treatability groups which in turn correspond to two treatment technologies.

b. *Demonstration 40 CFR 268.5(a)(6).* KAPL has one storage facility that will be able to accept containerized mixed wastes. DOE states that it has RCRA interim status. The name, building number, and design capacity for the container storage facility is listed in Table 15-2. The total design capacity of this facility is 5 m^3.

TABLE 15-1.—KAPL CBC—APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Lead Solids	0.08	D008	Lead decontamination and recycle/macroencapsulation.
Subtotal	0.08		
Treatability Group No. 13: LLW TC Metal Inorganic Solid Debris:			
Solid Debris	0.02	D006, D007, D008, D009, D011	Inorganic debris treatment.
Subtotal	0.02		
Total (all treatability groups)	0.10		

TABLE 15-2.—KAPL MIXED WASTE CONTAINER STORAGE FACILITIES

Facility Name	Building No.	Design capacity (m^3)
Mixed Waste Storage Facility	H2	5.00
Total		5.00

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). KAPL does not generate any non CBC-applicable mixed waste.

Against a total storage capacity of 5 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 0.2 m^3; on May 8, 1993, 0.3 m^3; and on May 8, 1994, 0.4 m^3. DOE's evaluation shows that KAPL will have sufficient container storage capacity for the two anticipated CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for KAPL.

16. Lawrence Berkeley Laboratory (LBL); Berkeley, California

LBL is located on the grounds of the University of California at Berkeley, on the east side of San Francisco Bay and approximately 15 miles northeast of the City of San Francisco. LBL is a multi-program national laboratory operated by the University of California for the U.S. Department of Energy (DOE). The major role of the LBL is to conduct basic energy research programs such as high-energy physics, nuclear physics, heavy ion fusion, magnetic fusion energy, X-ray optics, biology, and medicine. This research is conducted at facilities including the National Center for Electron Microscopy, four large accelerators, several small accelerators, a number of radiochemical laboratories, several large gamma irradiators, and the National Tritium Labeling Facility (NTLF). LBL is seeking extensions to the effective date for five CBC-applicable low level mixed waste streams that are generated and stored at LBL as shown in Table 16–1.

a. *Waste stream and treatment information.* LBL currently generates five CBC-applicable low level mixed wastes having a generation rate of 0.28 m^3/yr; LBL does not currently generate any CBC-applicable high level or transuranic mixed wastes. As shown in Table 16–1, the five CBS-applicable low level mixed wastes fall into four treatability groups which in turn correspond to three treatment technologies.

b. *Demonstration 40 CFR 268.5(a)(6).* LBL has one storage facility that will be able to accept containerized mixed wastes. DOE states that this facility has a RCRA Part B permit. The name, building number, and design capacity for the container storage facility is listed in Table 16-2. The total design capacity of this facility is 109 m^3.

TABLE 16–1.—LBL CBC—APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 2: LLW P and U listed organic nonwastewaters:			
Scintillation fluid (U239, U220)	0.20	U239, U220	Incineration.
Subtotal	.20		
Treatability Group No. 6: LLW TC metal organic solid debris:			
Flammable solids	.02	D001	Incineration followed by stabilization.
Subtotal	.02		
Treatability Group No. 8: LLW TC metal nonwastewaters:			
Corrosive liquid (Bases)	.02	D002	Stabilization.
Subtotal	.02		
Treatability Group No. 12: LLW radioactive lead solids:			
Induced lead	.02	D008	Lead decontamination and recycle/macroencapsulation.
Radioactively contaminated lead	.02	D008	
Subtotal	.04		
Total (all treatability groups)	.28		

TABLE 16–2.—LBL MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Hazardous Waste Handling Facility	75A	109.00
Total		109.00

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 109 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 13.4 m^3; on May 8, 1993, 14.5 m^3; and on May 8, 1994, 15.6 m^3. DOE's evaluation shows that LBL will have sufficient container storage capacity for the five CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for LBL.

17. Lawrence Livermore National Laboratory (LLNL); Livermore, California

LLNL, an energy and defense research facility, is located in Livermore, California. Site 300 is a high-explosive testing facility located 15 miles east of the Main Site. Functions of LLNL include: research, development, and test activities associated with the nuclear design aspects of the nuclear weapons life cycle and related national security tasks; inertial confinement fusion; magnetic fusion energy; biomedical and environmental research; laser isotope separation; energy-related research;

beam research physics; and support to a variety of Defense and other Federal agencies. Site 300 supports LLNL's primary mission in the design of nuclear weapons. Site 300 provides the ability to develop new high explosives or fabricate any high explosives from raw materials; the ability to manufacture and assemble parts for testing, test projects using high explosives, and diagnostics; and the capability to perform particle beam research. LLNL is seeking an extension to the effective date for a single CBC-applicable low level mixed waste and two CBC-applicable transuranic mixed waste streams that are generated and stored at LLNL as shown in Tables 17–1 and 17–2.

a. *Waste stream and treatment information.* LLNL currently generates both CBC-applicable low level mixed wastes and transuranic mixed wastes; LLNL does not generate any CBC-applicable high level mixed wastes. The single CBC-applicable low level mixed waste generated at LLNL has a generation rate of 5.00 m^3/yr. As shown in Table 17–1, that mixed waste falls into one treatability group which in turn corresponds to one treatment technology.

The two CBC-applicable transuranic mixed wastes generated at LLNL are presented in Table 17–2. Their combined generation rate is 4.00 m^3/yr. While DOE plans to store both low level and transuranic mixed wastes at LLNL during the extension period, DOE's long-term management strategy for transuranic mixed wastes is different than for low level mixed wastes. As discussed in section II.A.2.b.(21), DOE plans to store and manage all transuranic mixed wastes at its facilities until such time as the WIPP is able to accept the wastes.

b. *Demonstration 40 CFR 268.5(a)(6).* LLNL has eight storage facilities that will be able to accept containerized mixed wastes. DOE has stated that these facilities have RCRA interim status. The name, building number, and design capacity for each container storage facility are listed in Table 17–3. The total design capacity of these facilities is 2,318 m^3.

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

TABLE 17–1.—LLNL CBC—APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 13: LLW TC Metal Inorganic Solid Debris:			
Classified Metal Mixed Waste	5.00	D006, D007, D008, D009	Inorganic Debris Treatment
Subtotal	5.00		
Total (All Treatability Groups)	5.00		

TABLE 17–2.—LLNL CBC—APPLICABLE TRANSURANIC MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes
Toxic Metal-Contaminated TRU Waste	1.00	D006, D007
Lead-Contaminated Solid TRU Waste	3.00	D008
Subtotal	4.00	
Total	4.00	

TABLE 17–3. LLNL MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building number	Design capacity (m^3)
Classified Storage Area	612–5	760.78
Building 625 East Container Storage	625 East	80.00
Area 612 Storage Area 612–1	612–1	1,087.26
Building 513 Container Storage	B–513	59.89
Area 514 Storage Area 514–2	514–2	56.43
Area 612 Receiving, Segregation, Storage	612–4	180.58
Area 514 Storage Area 514–1	514–1	53.50
Building 624 Incinerator Storage	624	40.13
Total		2,318.57

In its evaluation of the required storage capacity, DOE included both CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 2,318 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 388 m^3; on May 8, 1993, 499 m^3; and on May 8, 1994, 610 m^3. DOE's evaluation shows that LLNL will have sufficient container storage capacity for the one CBC-applicable low level mixed waste and two CBC-applicable transuranic mixed wastes during the course of the

extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for LLNL.

18. Los Alamos National Laboratory (LANL); Los Alamos, New Mexico

The Los Alamos National Laboratory (LANL) occupies about 24,400 acres in Los Alamos County, 25 miles northwest of Santa Fe. Operated under contract by the University of California, LANL conducts programs in applied research in nuclear and conventional weapons development, nuclear fission and fusion, and nuclear safeguards and security. Basic science research complements and strengthens its fundamental technical capabilities. LANL is seeking extensions to the effective date for seven CBC-applicable low level mixed waste streams that are generated and stored at LANL as shown in Tables 18–1 and 18–2.

a. *Waste stream and treatment information.* LANL currently generates three CBC-applicable low level mixed wastes having a combined generation rate of 14.42 m^3/yr. The other four low level mixed wastes are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes; LANL does not generate any CBC-applicable high level mixed wastes or transuranic mixed wastes.

The seven CBC-applicable low level mixed wastes fall into six treatability groups which in turn correspond to five treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 18–1 for the three low level mixed wastes that will be generated after May 8, 1992. Treatability groups, waste codes, and existing inventories for the no longer generated mixed wastes are shown in Table 18–2.

b. *Demonstration 40 CFR 268.5(a)(6).* LANL has 41 storage facilties, located in eight major storage groupings, that will be able to accept containerized mixed wastes. DOE states that these facilities have RCRA interim status. The name, building number, and design capacity for each container storage facility are listed in Table 18–3. The total design capacity of these facilities is 28,540 m^3.

TABLE 18–1.—LANL CBC-APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 13: LLW TC Metal Inorganic Solids Debris:			
Mercury Contaminated Pumps	0.42	D009	Inorganic debris treatment.
Subtotal	0.42		
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Lead Bricks, Pigs	12.00	D008	Lead decontamination and recycle/macroencapsulation.
Subtotal	12.00		
Treatability Group No. 5: LLW LDR Appendix IV Labpacks and LLW LDR Appendix V Labpacks:			
Lab Chemicals in Labpacks	2.00	D004, D005, P029, U117, U154, U211, U228	Incineration followed by stabilization.
Subtotal	2.00		
Total (all treatability groups)	14.42		

TABLE 18–2.—LANL CBC-APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
Nitrated Rags	D001	12.480	Incineration followed by stabilization.
Subtotal		12.480	
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Cadmium Contaminated Sludge	D006	0.420	Stabilization.
Subtotal		0.420	
Treatability Group No. 11: LLW Ignitable and/or Water Reactives:			
Sodium	D003	0.110	Oxidation (thermal or water reaction).
Subtotal		0.110	
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Lead Stringer	D008	0.714	Lead decontamination and recycle/macroencapsulation.
Subtotal		0.714	
Total (all treatability groups)		13.724	

TABLE 18-3.—LANL MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
TA-3	TA-3-29	70.030
TA-16	TA-16-88	1.041
TA-21	TA-21-61	20.820
TA-33	TA-33-90, TA-33-92	12.492
TA-50	TA-50-1, TA-50-114, TA-50-69, TA-50-37	205.074
TA-54	Area L	581.816
TA-54	Area G	27,004.191
TA-55	TA-55-4	645.221
Total		28,540.685

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 28,540 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 450 m^3; on May 8, 1993, 535 m^3; and on May 8, 1994, 619 m^3. DOE's evaluation shows that LANL will have sufficient container storage capacity for the seven CBC-applicable low level mixed wastes managed during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for LANL.

19. Mound Plant (Mound); Miamisburg, Ohio

The Mound Plant is located within the southern city limits of Miamisburg in southwestern Ohio. The plant site occupies 306 acres in a high area overlooking Miamisburg and the Great Miami River. The surrounding area is extensively urbanized, with the Dayton metropolitan area located about 10 miles north-northeast of the installation. Mound is an integrated research, development, and production facility that performs work in support of DOE weapons and energy programs, with emphasis on explosives and nuclear technology. The main function of the plant is the manufacture of non-nuclear and tritium-containing components for nuclear weapons. Mound is seeking extensions to the effective date for two CBC-applicable low level mixed wastes and one CBC-applicable transuranic mixed waste that are generated and stored at Mound as shown in Tables 19-1, 19-2, and 19-3.

a. *Waste stream and treatment information.* Mound currently generates both CBC-applicable low level mixed wastes and transuranic mixed wastes; Mound does not generate any CBC-applicable high level mixed wastes. One CBC-applicable low level mixed waste generated at Mound has a generation rate of 0.20 m^3/yr. The other low level mixed waste is classified as CBC-applicable even though DOE projects it will not be generated after May 8, 1992. The reason for including this mixed waste is that DOE believes it may need to be managed in a manner that constitutes removal from storage during the extension period and therefore becomes subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed waste.

The two CBC-applicable low level mixed wastes fall into two treatability groups which in turn correspond to two treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 19-1 for the low level mixed waste that will be generated after May 8, 1992. The treatability group, waste code, and existing inventories for the no longer generated mixed waste are shown in Table 19-2.

The CBC-applicable transuranic mixed waste is generated at the rate of 0.25 m^3/yr as shown in Table 19-3. While DOE plans to store both low level and transuranic mixed wastes at Mound during the extension period, DOE's long-term management strategy for the transuranic mixed waste is different than for the low level mixed wastes. As discussed in section II.A.2.b.(21), DOE plans to store and manage all transuranic mixed wastes at its facilities until such time as the WIPP is able to accept the wastes.

b. *Demonstration 40 CFR 268.5(a)(6).* Mound has one storage facility that will be able to accept containerized mixed wastes. DOE states this facility has RCRA interim status. The name, building number, and design capacity for the container storage facility is listed in Table 19-4. The total design capacity of this facility is 187 m^3.

TABLE 19-1.—MOUND CBC-APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Lead—LLW	0.20	D008	Lead decontamination and recycle/macroencapsulation.
Subtotal	0.20		
Total (all treatability groups)	0.20		

TABLE 19-2.—MOUND CBC-APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%:			
Ethylene Dichloride—LLW	D001, D028	0.010	Incineration (followed by stabilization if necessary).
Subtotal			
Total (all treatability groups)		0.010	

TABLE 19-3.—MOUND CBC-APPLICABLE TRANSURANIC MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes
Lead-TRU	0.25	D008
Subtotal	0.25	
Total	0.25	

TABLE 19-4.—MOUND MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Waste Material Staging Center	23	187.00

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included CBC-applicable and non-CBC applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 187 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 49 m^3; on May 8, 1993, 51 m^3; and on May 8, 1994, 52 m^3. DOE's evaluation shows that Mound will have sufficient container storage capacity for the two CBC-applicable low level mixed wastes and one CBC-applicable transuranic mixed waste during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for Mound.

20. Naval Reactor Facility (NRF); Idaho Falls, Idaho

The Naval Reactor Facility (NRF) is administered by the Pittsburgh Naval Reactor Office and operated by the Bettis Atomic Power Laboratory. NRF is a research and development facility for the Naval Nuclear Propulsion Program and serves as a training school for officers and crews who operate reactors for the U.S. Navy. Prototype reactors for naval surface ships and submarines were developed here. NRF is seeking extensions to the effective date for three no longer generated CBC-applicable low level mixed waste streams that are stored at NRF as shown in Table 20-1.

TABLE 20-1.—NRF CBC-APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
Chromate Contaminated Rags	D007	0.200	Incineration followed by stabilization.
Subtotal		0.200	
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Lead Ash	D008	0.040	Lead decontamination and recycle/macroencapsulation.
Subtotal		0.040	
Treatability Group No. 13: LLW TC Metal Inorganic Solid Debris:			
Cadmium Sheets	D006	0.020	Inorganic debris treatment.
Subtotal		0.020	
Total (all treatability groups)		0.260	

a. *Waste stream and treatment information.* NRF currently manages three CBC-applicable low level mixed wastes. These three mixed wastes are considered CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be

managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed waste; NRF does not currently manage any high level mixed wastes or transuranic mixed wastes. As shown in Table 20–1, the three CBC-applicable low level mixed wastes fall into three treatability groups which in turn correspond to three treatment technologies.

b. *Demonstration 40 CFR 268.5(a)(6).* NRF uses facilities at INEL to store its containerized mixed wastes. These facilities were previously described in section 10, and DOE stated that these facilities have RCRA interim status. The name, building number, and design capacity for each container storage facility are listed in Table 10–2. The total design capacity of this facility is 226,240 m ^{3}.

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes, respectively, at NRF. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. As shown in the application, no future generation of CBC-applicable or non-CBC-applicable mixed wastes is projected.

In its evaluation of the required storage capacity, DOE included both CBC-applicable and non-CBC-applicable mixed wastes. Against a total storage capacity at INEL of 226,240 m ^{3}, DOE stated the mixed waste inventories for NRF to be on May 8, 1992, 0.28 m ^{3}; on May 8, 1993, 0.28 m ^{3}; and on May 8, 1994, 0.28 m ^{3}. (As indicated in the section 10, INEL will have over 162,000 m ^{3} of excess storage capacity through the extension period.) DOE's evaluation shows that INEL will have adequate container storage capacity for the three NRF CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements for Demonstration 40 CFR 268.5(a)(6) for NRF.

21. Oak Ridge National Laboratory (ORNL); Oak Ridge, Tennessee

The Oak Ridge National Laboratory (ORNL) occupies several sites and covers approximately 2,900 acres in Melton Valley and Bethel Valley, 10 miles southwest of downtown Oak Ridge, Tennessee. ORNL's mission is to conduct applied research and engineering development in support of DOE's programs in fusion, fission, conservation, fossil, and other energy technologies, and to perform basic scientific research in selected areas of the physical and life sciences. Past research and development and waste management activities at ORNL have produced a significant number of surplus inactive facilities contaminated with low level mixed wastes and/or hazardous chemical wastes. ORNL is seeking extensions to the effective date for a total of 14 CBC-applicable low level mixed wastes and two CBC-applicable transuranic mixed waste streams that are generated and stored at ORNL as shown in Tables 21–1, 21–2, 21–3, and 21–4.

a. *Waste stream and treatment information.* ORNL currently generates 13 CBC-applicable low level mixed wastes and one transuranic mixed waste; ORNL does not generate any CBC-applicable high level mixed wastes. The 13 CBC-applicable low level mixed wastes generated at ORNL have a combined generation rate of 9.186 m ^{3}/yr. The other low level and transuranic mixed waste are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to manage in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes.

The 14 CBC-applicable low level mixed wastes fall into nine treatability groups which in turn correspond to five treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 21–1 for the low level mixed wastes that will be generated after May 8, 1992. Treatability groups, waste codes, and existing inventories for the one no longer generated low level mixed waste is shown in Table 21–2.

The one currently generated CBC-applicable transuranic mixed waste has a generation rate of 40.00 m ^{3}/yr as shown in Table 21–3. EPA waste codes and the May 8, 1992 inventory for the no longer generated transuranic mixed waste are given in Table 21–4. While DOE plans to store both low level and transuranic mixed wastes at ORNL during the extension period, DOE's long-term management strategy for transuranic mixed wastes is different than for low level mixed wastes. As discussed in section II.A.2.b.(21), DOE plans to store and manage all transuranic mixed wastes at its facilities, until such time as the WIPP is able to accept the wastes.

b. *Demonstration 40 CFR 268.5(a)(6).* ORNL has five storage facilities that will be able to accept containerized mixed wastes. DOE states that four facilities have RCRA interim status and one building, 7855, has a RCRA Part B permit. The name, building number, and design capacity for each container storage facility are listed in Table 21–5. The total design capacity of these facilities is 1,041 m ^{3}.

TABLE 21–1.—ORNL CBC—APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids [1]—TOC > 10%:			
Flammable Liquids	7.280	D001	Incineration (followed by stabilization if necessary).
Subtotal	7.280		
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Barium	0.010	D005	Stabilization.
Cadmium	0.300	D006	
Corrosives—Liquids (Bases)	0.200	D002	
Corrosives—Solids (Bases)	0.010	D002	
Subtotal	0.520		
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
Flammable Solids	0.770	D001	Incineration followed by stabilization.

TABLE 21-1.—ORNL CBC—APPLICABLE LOW LEVEL MIXED WASTE—Continued

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Subtotal	0.770		
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Lead	0.480	D008	Lead decontamination and recycle/macroencapsulation.
Subtotal	0.480		
Treatability Group No. 5: LLW LDR Appendix IV Labpacks and LLW LDR Appendix V Labpacks:			
Benzene	0.010	U019	Incineration.
Subtotal	0.010		
Treatability Group No. 3: LLW Unquantifiable P&U Listed Organic Nonwastewaters:			
Methanol (Methyl Alchol)	0.080	U154	Incineration.
7,12-Dimethylbenzanthracene	0.005	U094	
Subtotal	0.085		
Treatability Group No. 2: LLW P&U Listed Organic Nonwastewaters:			
Phenol	0.020	U188	Incineration.
Subtotal	0.020		
Treatability Group No. 11: LLW Water Reactives:			
Reactives	0.020	D003	Oxidation (thermal or water reaction).
Subtotal	0.020		
Treatability Group No. 10: LLW P&U Listed Inorganic Cyanide Nonwastewaters:			
Cyanide	0.001	D003, P029	Cyanide destruction (followed by stabilization of metals if necessary).
Subtotal	0.001		
Total (All Treatability Groups)	9.186		

TABLE 21-2.—ORNL CBC-APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Inactive Waste Storage Tank Contents—C	D006, D007, D008, D009	0.060	Stabilization.
Subtotal		0.060	
Total (all treatability groups)		0.060	

TABLE 21-3.—ORNL CBC-APPLICABLE TRANSURANIC MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes
TRU waste	40.00	D008, D009
Subtotal	40.00	
Total	40.00	

TABLE 21-4.—ORNL CBC-APPLICABLE TRANSURANIC MIXED WASTE NO LONGER GENERATED

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Inventory as of May 8, 1992
Inactive Waste Storage Tank Contents—D	0.000	D006,D007, D008, D009	110.000
Total			110.000

TABLE 21-5.—ORNL MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Long-Term Hazardous Waste Storage Facility.	7654	62.41
Mixed Waste Drum Storage Pad.	7507W	83.70
TRU Retrievable Concrete Cask Stor..	7855	175.00
TRU Retrievable Drum Storage Facility.	7834	370.00
TRU Retrievable Drum Storage Facility.	7826	350.00
Total		1,041.11

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes, respectively, at ORNL. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 1,041 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 823 m^3; on May 8, 1993, 879 m^3; and on May 8, 1994, 935 m^3. DOE's evaluation shows that ORNL will have sufficient container storage capacity for the 14 CBC-applicable low level mixed wastes and two CBC-applicable transuranic mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for ORNL.

22. Paducah Gaseous Diffusion Plant (PGDP); Paducah, Kentucky

The mission of the Paducah Gaseous Diffusion Plant (PGDP) is the enrichment of uranium hexafluoride in the uranium-235 isotope. The gaseous diffusion process for uranium enrichment is a major part of the nuclear fuel cycle. The diffusion plant consists of four major process cascade buildings containing a total of 1,760 enriching stages; central control facilities; feed and withdrawal facilities; supporting utilities such as electrical power, compressed air, nitrogen, steam, sewage, sanitary water, and recirculating cooling water systems; maintenance shops; decontamination areas; and laboratory and administrative facilities. In addition to the enrichment plant facilities, PGDP has special facilities for the recovery and recycling of valuable metals resulting from other DOE operations. PGDP is seeking extensions to the effective date for 16 CBC-applicable low level mixed waste streams that are generated and stored at PGDP as shown in Tables 22-1 and 22-2.

a. *Waste stream and treatment information.* PGDP currently generates 11 CBC-applicable low level mixed wastes having a combined generation rate of 26.44 m^3/yr. The other five low level mixed wastes are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes; PGDP does not generate any CBC-applicable high level mixed wastes or transuranic mixed wastes.

The 16 CBC-applicable low level mixed wastes fall into seven treatability groups which in turn correspond to four treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 22-1 for low level mixed wastes that will be generated after May 8, 1992. Treatability groups, waste codes, and existing inventories for the no longer generated mixed wastes are shown in Table 22-2.

b. *Demonstration 40 CFR 268.5(a) (6).* PGDP has four storage facilities that will be able to accept containerized mixed wastes. DOE states that these facilities are RCRA Part B permitted. The name, building number, and design capacity for each container storage facility are listed in Table 22-3. The total design capacity of these facilities is 2,676 m^3.

TABLE 22-1.—PGDP CBC—APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC>10%:			
TEHP Solution	0.30	D001	Incineration (followed by stabilization if necessary).
Subtotal	0.30		
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
EP Toxic Sludges (Gold Dissolver & U.P.)	1.10	D006, D008	Stabilization.
Magnesium Fluoride Pellets	0.80	D007	
Vacuum Dust	0.20	D008, D010	
Subtotal	2.10		
Treatability Group No. 13: LLW TC Metal Inorganic Solid Debris:			
Miscellaneous Mercury Contam. Solid	0.02	D009	Inorganic debris treatment.
Brass Chips, Turnings	0.60	D008	
Glass Beads—EP Toxic Mixed	0.42	D006, D008	
Subtotal	1.04		
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
Mixed Corrosive Waste—Filters	0.50	D002, D006, D007, D008	Incineration followed by stabilization.
Subtotal	0.50		
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Miscellaneous Lead Solids	0.20	D008	Lead decontamination and recycle/macroencapsulation.

TABLE 22-1.—PGDP CBC—APPLICABLE LOW LEVEL MIXED WASTE—Continued

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Subtotal	0.20		
Treatability Group No. 4: LLW TC Metal Nonignitable Organic Liquid:			
Uranium Contam. Waste Oils Mixed EP Tox	22.10	D008, D009	Incineration followed by stabilization.
Subtotal	22.10		
Treatability Group No. 7: LLW RMW PCB Solids 50 ppm<PCB<500 ppm:			
Laboratory Samples	0.20	D007	Incineration (followed by stabilization if necessary).
Subtotal	0.20		
Total (all treatability groups)	26.44		

TABLE 22-2.—PGDP CBC—APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%:			
Mineral Spirits	D001	0.210	Incineration (followed by stabilization if necessary).
Subtotal		0.210	
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Ash Receiver Residue	D004, D007	464.100	Stabilization.
Sodium Dichromate	D007	0.200	
Sodium Hydroxide	D002	0.200	
Oxalic Acid	D002	0.000	
Subtotal		464.500	
Total (all treatability groups)		464.710	

TABLE 22-3.—PGDP MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Hazardous Mixed Waste Storage Fac.	C-746-Q	971.237
Hazardous Waste Storage Facility	C-733	104.120
Waste Solvent Storage Area	C-746-R	41.908
TSCA Storage	C-746-A	1,559.009
Total		2,676.274

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included both CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 2,676 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 634 m^3; on May 8, 1993, 670 m^3; and on May 8, 1994, 706 m^3. DOE's evaluation shows that PDGP will have sufficient container storage capacity for the 16 CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for PDGP.

23. Pantex Plant (Pantex): Amarillo, Texas

The Pantex Plant is located on a 16,000 acre tract of land 17 miles northeast of Amarillo, Texas. Pantex is engaged in the assembly, disassembly, modification, and repair of nuclear weapons. The plant is also engaged in the development, fabrication, surveillance, testing, and disposal of chemical explosives. Pantex is seeking an extension to the effective date for two CBC-applicable low level mixed waste streams that are generated and stored at Pantex as shown in Tables 23-1 and 23-2.

a. *Waste stream and treatment information.* Pantex currently generates one CBC-applicable low level mixed waste having a generation rate of 4.0 m^3/yr. The other low level mixed waste is classified as CBC-applicable even though DOE projects it will not be generated after May 8, 1992. The reason for including this mixed waste is that DOE believes it may need to be managed in a manner that constitutes removal from storage during the extension period and therefore becomes subject to the LDR storage prohibition. This mixed waste is referred to as no longer generated mixed waste; Pantex

does not generate any CBC-applicable high level mixed wastes or transuranic mixed wastes.

The two CBC-applicable low level mixed wastes fall into two treatability groups which in turn correspond to two treatment technologies. The treatability group, generation rate, and waste code are shown in Table 23–1 for the low level mixed waste that will be generated after May 8, 1992. The treatability group, waste code, and existing inventory for the no longer generated mixed waste are shown in Table 23–2.

b. *Demonstration 40 CFR 268.5(a)(6).* Pantex has 12 storage facilities that will be able to accept containerized mixed wastes. DOE states that these facilities have RCRA Part B permits. The name, building number, and design capacity for each container storage facility are listed in Table 23–3. The total design capacity of these facilities is 1,483 m ^{3}.

TABLE 23–1.—PANTEX CBC—APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 13: LLW TC Metal Inorganic Solid Debris:			
Mercury Contaminated Metal	4.0	D007, D008, D009	Inorganic debris treatment.
Subtotal	4.0		
Total (all treatability groups)	4.0		

TABLE 23–2.—PANTEX CBC—APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%:			
Scintillation Fluids Using Biofluor	D001	3.740	Incineration (followed by stabilization if necessary).
Total (all treatability groups)		3.740	

TABLE 23–3.—PANTEX MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Munitions Igloo	4–19B	38.00
Igloo	4–50	421.00
Conex Container	WM1	24.00
Conex Container	WM2	24.00
Conex Container	WM3	24.00
Conex Container	WM4	24.00
Conex Container	WM5	24.00
Conex Container	WM6	24.00
Conex Container	WM7	24.00
Conex Container	WM8	24.00
Classified Storage Building (Proposed)	16–16	416.00
Non-Classified Storage Building (Proposed)	16–17	416.00
Total		1,483.00

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included both CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 1483 m ^{3}, DOE stated the mixed waste inventories to be on May 8, 1992, 221 m ^{3}; on May 8, 1993, 248 m ^{3}; and on May 8, 1994, 275 m ^{3}. DOE's evaluation shows that Pantex will have sufficient container storage capacity for the two CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for Pantex.

24. Portsmouth Gaseous Diffusion Plant (PORTS); Piketon, Ohio

The Portsmouth Gaseous Diffusion Plant (PORTS) site covers 3,700 acres approximately 20 miles north of Portsmouth, Ohio. The principal on-site process at PORTS is the separation of uranium isotopes through gaseous diffusion. This process produces enriched uranium, which is used for nuclear fuel in commercial power plants and for military purposes. Ancillary processes, systems, and operations serving the enrichment process include a cooling water system, a nitrogen manufacturing plant, a sanitary water system, a sewage treatment plant, laboratory maintenance shops, and other facilities. PORTS is seeking extensions to the effective date for 10

CBC-applicable low level mixed waste streams that are generated, treated, and stored at PORTS as shown in Tables 24–1 and 24–2.

a. *Waste stream and treatment information.* PORTS currently generates eight CBC-applicable low level mixed wastes having a combined generation rate of 67.00 m ^{3}/yr. The other two low level mixed wastes are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes; PORTS does not generate any CBC-applicable high level mixed wastes or transuranic mixed wastes.

The 10 CBC-applicable low level mixed wastes fall into five treatability groups which in turn correspond to three treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 24–1 for low level mixed wastes that will be generated after May 8, 1992. Treatability groups, waste codes, and existing inventories for the no longer generated mixed wastes are shown in Table 24–2.

b. *Demonstration 40 CFR 268.5(a)(6).* PORTS has three operational storage facilities that are able to accept containerized mixed wastes. DOE states that two of these facilities, X–752 and X–744G, are operated under a 1989 Consent Decree with the State of Ohio and will be closed by November 1992. They will be replaced by one new unit (X–326) prior to that date. Due to this transitioning of storage facilities, only X–326 and the third existing facility (X–7725) will be operational and accepting mixed wastes through the end of the proposed extension period. The name, building number, and design capacity for each of these two container storage facilities (X–326 and X–7725), as well as for the two facilities scheduled to close, are listed in Table 24–3.

TABLE 24–1.—PORTS CBC-APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m ^{3}/yr)	EPA waste codes	Treatment technology
Treatability Group No. 8: LLW TC Metal Nonwasterwaters:			
Heavy Metal Sludge	25.00	D006, D008, D009	Stabilization.
Subtotal	25.00		
Treatability Group No. 13: LLW TC Metal Inorganic Solids Debris:			
Metal Turnings	15.00	D006, D008	Inorganic debris treatment.
Glass Blasting Beads	0.50	D006, D008	
Mercury Vapor Bulbs	4.00	D009	
Subtotal	19.50		
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%			
Uranium Analyzer Solution	6.00	D001, D002	Incineration (followed by stabilization if necessary).
Paint Materials	0.50	D001	
Subtotal	6.50		
Treatability Group No. 4: LLW TC Metal Nonignitable Organic Liquid:			
Motor Cleaning	16.00	D002	Incineration follow by stabilization.
Subtotal	16.00		
Treatability Group No. 14: LLW TC Metal Soil:			
Cooling Tower Blow Down Spill	[1] 0.00	D007	Stabilization.
Subtotal	[1] 0.00		
Total (all treatability groups)	67.00		

[1] The annual generation rate of 0.00 indication sporadic generation of this waste stream. The generation rate cannot be estimated.

TABLE 24–2.—PORTS CBC-APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%:			
Spill in Uranium Recovery	D001	0.800	Incineration (followed by stabilization if necessary).
Subtotal		0.800	
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Cleaning Solutions	D002	6.00	Stabilization.
Subtotal		6.000	
Total (all treatability groups)		6.800	

TABLE 24–3.—PORTS MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building number	Design capacity (m ^{3})
Hazardous Waste Storage Facility	X–752	* 667.00
Mixed Waste Storage Facility	X–744G	* 4,566.00
Mixed Waste Storage Facility	X–326	* 370.59

TABLE 24-3.—PORTS MIXED WASTE CONTAINER STORAGE FACILITIES—Continued

Facility name	Building number	Design capacity (m^3)
Hazardous and Mixed Waste Storage	X-7725	20,776.09
Total		21,146.68

[a] Facility will be closed and all RMW removed by November 1992, so capacity is *not* included in total.
[b] Facility is scheduled to be operational by November 1992.

In its demonstration, DOE used the design capacity of the two facilities, X-326 and X-7725, which will be operational and accepting mixed wastes through May 1994. However, since DOE does not anticipate building X-326 to be operational until November 1992, EPA evaluated this demonstration taking into account only the design capacity of building X-7725.

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included both CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 20,776 m^3 (in building X-7725), DOE stated the mixed waste inventories to be on May 8, 1992, 4,231 m^3; on May 8, 1993, 4,414 m^3; and on May 8, 1994, 4,598 m^3. DOE's evaluation shows that PORTS will have sufficient container storage capacity for the 10 CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for PORTS.

25. Rocky Flats Plant (RFP); Golden, Colorado

The Rocky Flats Plant (RFP) is located in northern Jefferson County 16 miles northwest of Denver and covers 11 square miles. RFP's primary mission is to produce plutonium and other metal components for nuclear weapons. Production activities include metalworking, fabrication and component assembly, plutonium recovery and purification, and associated quality control functions. The plant has specialized facilities for recovering nuclear components from obsolete weapons. Plant operations also include operating a chemical laboratory, performing research and development, and providing special support for other DOE facilities. RFP is seeking an extension to the effective date for 10 CBC-applicable low level mixed wastes and five CBC-applicable transuranic mixed waste streams that are generated and stored at RFP as shown in Tables 25-1, 25-2, 25-3, and 25-4.

a. *Waste stream treatment information.* RFP currently generates both CBC-applicable low level and transuranic mixed wastes; RFP does not currently generate any CBC-applicable high level mixed wastes. Eight CBC-applicable low level mixed wastes generated at RFP have a combined generation rate of 5,795.19 m^3/yr. The other two low level mixed wastes and two transuranic mixed wastes are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes.

The 10 CBC-applicable low level mixed wastes fall into six treatability groups which in turn correspond to four treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 25-1 for the low level mixed wastes that will be generated after May 8, 1992. Treatability groups, waste codes, and existing inventories for the no longer generated mixed wastes are shown in Table 25-2.

From Table 25-1, it can be seen that of the total volume of low level mixed wastes generated, nearly all (5,784.13 m^3/yr of 5,795.19 m^3/yr) are pondcrete and saltcrete wastes. Pondcrete and saltcrete were produced when sediments and sludges were removed from solar evaporation ponds, mixed with cement, then poured into tri-wall fiberwall boxed with plastic liners to form a solidified waste. According to DOE, the cleanup efforts are completed for the largest solar pond; efforts are still needed for the remaining four ponds.

Approximately 18,500 pondcrete blocks were produced, and over 10,500 blocks were shipped to and disposed of at the Nevada Test Site. Currently, RFP stores approximately 8,000 blocks, some of which have not been properly set or have deteriorated. Because of previous processing problems, large inventories (estimated at 7,764 m^3/yr by May 8, 1992) have accumulated at RFP [1]. DOE states that samples were collected from the pondcrete blocks to verify the treatment standards as stated in the LDR regulation. The analyses verified that not all pondcrete blocks met the treatment standards.

DOE stated that RFP has issued a contract to collect and analyze representative pondcrete samples, characterize pond sludge and sediment, perform a treatability study, design a treatment scheme, clean up the remaining ponds, treat the pond sludge, and reprocess the pondcrete. This contract is available in the RCRA Docket. DOE believes that some of the existing pondcrete not only meets the LDR treatment standards but will also meet delisting criteria. DOE also believes that once the sludge is treated or failed pondcrete is reprocessed, the final pondcrete product will be eligible for a delisting petition. DOE is developing the type of data necessary to support the delisting petition. DOE believes findings to date have indicated that all wastes, once treated, will meet LDR treatment standards. These particular mixed wastes are discussed further in section b. below.

The three currently generated CBC-applicable transuranic mixed wastes

[1] These problems are described in GAO/RCED-91-31, "Problems With Cleaning Up the Solar Ponds at Rocky Flats," January 1991.

have a generation rate of 12.64 m ^{3}/yr. As mentioned above, RFP also has two no longer generated transuranic mixed wastes in storage. Generation rates, waste codes, and inventories for the transuranic mixed wastes are given in Tables 25–3 and 25–4. While DOE plans to store both low level and transuranic mixed wastes at RFP during the extension period, DOE's long-term management strategy for transuranic mixed wastes is different than for low level mixed wastes. As discussed in section II.A.2.b.(21), DOE plans to store and manage all transuranic mixed wastes at RFP until such time as the WIPP is able to accept the wastes.

b. *Demonstration 40 CFR 268.5(a)(6).* DOE states that it will manage pondcrete and saltcrete separately from its other mixed wastes. For mixed wastes other than pondcrete and saltcrete, RFP has 16 storage facilities that will be able to accept containerized mixed wastes. DOE states that they have either RCRA interim status or RCRA Part B permits. The name, building number, and design capacity for each container storage facility (non-pondcrete and non-saltcrete) are listed in Table 25.5. The total design capacity of these facilities is 7,330 m ^{3}.

In the application and supporting information, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes (other than pondcrete and saltcrete). This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity (for other than pondcrete and saltcrete), DOE included both CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 7,330 m ^{3}, DOE stated the mixed waste inventories to be on May 8, 1992, 2,285 m ^{3}; on May 8, 1993, 2,531 m ^{3}; and on May 8, 1994 2,776 m ^{3}. DOE's evaluation shows that RFP will have sufficient container storage capacity for mixed waste other than pondcrete and saltcrete during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In regard to pondcrete and salcrete, DOE states that it will manage these mixed wastes at three storage facilities which have either RCRA interim status or RCRA Part B permits. These facilities are the 904 Pad, Building 788, and the 750 Pad as shown in Table 25–6. The total design capacity of these three facilities is 19,803 m ^{3}. Against this capacity, DOE stated the pondcrete/saltcrete inventories to be on May 8, 1992, 7,764 m ^{3}; on May 8, 1993, 15,889 m ^{3}; and on May 8, 1994, 16,473 m ^{3}.

TABLE 25–1.—RFP CBC-APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m ^{3}/yr)	EPA waste codes	Treatment technology
Treatability Group No. 13: LLW TC Metal Inorganic Solids Debris:			
Ground Glass/LLW Mixed	1.50	D008, D009	Inorganic debris treatment.
Subtotal	1.50		
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
Leaded Gloves/LLW Mixed	0.70	D008	Incineration followed by stabilization.
Leaded Gloves/Acid Contam. /LLW Mixed	0.70	D001, D002, D008	
Subtotal	1.40		
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Glovebox Parts With Lead/LLW Mixed	0.46	D008	Lead decontamination and recycle/Macroencapsulation.
Lead/LLW Mixed	7.30	D008	
Heavy Metal (Non-SS) /LLW Mixed	0.40	D008	
Subtotal	8.16		
Treatability Group No. 9: LLW F006–F009 Nonwastewaters:			
Pondcrete	[b] 5200.0	F001–F003, F005–F007, F009, D006	Stabilization.[a]
Saltcrete	584.13	D006, F001–F003, F005–F007, F009	
Total (All treatability groups)	5795.19		

[a] These waste streams currently meet treatment standards for cyanides. Only stabilization of wastes is required.
[b] Pondcrete is expected to be generated only between May 1992 and May 1993.

TABLE 25–2.—RFP CBC-Applicable Low Level Mixed Waste No Longer Generated

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%:			
Absorbed Organic Waste/LLW Mixed	D001	0.840	Incineration (followed by stabilization if necessary).
Subtotal		0.840	
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Fluidized Bed Incinerator Ash (LLW)	D007, D008, D009, F001, F002, F003, F005	9.000	Stabilization.

TABLE 25-2.—RFP CBC-Applicable Low Level Mixed Waste No Longer Generated—Continued

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Subtotal		9.000	
Total (all treatability groups)		9.840	

TABLE 25-3.—RFP CBC-APPLICABLE TRANSURANIC MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes
Ground Glass/TRU Mixed	0.28	D008, D009
Lead/TRU Mixed	0.46	D008
Leaded Gloves/Acid Contaminated/TRU Mixed	11.90	D001, D008
Subtotal	12.64	
Total (all treatability groups)	12.64	

TABLE 25-4.—RFP CBC-APPLICABLE TRANSURANIC MIXED WASTE NO LONGER GENERATED

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Inventory as of May 8, 1992
Fluidized Bed Incinerator Ash (TRU)	0.000	D004-D011, F001-F005	1.030
Heavy Metal (non-SS/TRU) Mixed	0.000	D008,	5.620
Total			6.650

TABLE 25-5.—RFP MIXED WASTE CONTAINER STORAGE FACILITIES FOR NON-PONDCRETE AND NON-SALTCRETE WASTE STREAMS

Facility name	Building No.	Design capacity (m^3)
Unit 17 Mixed Waste Storage	777	1.25
Unit 10 Drum Storage Area	561	66.62
Unit 13 Mixed Waste Storage	884	210.27
Unit 15 Mixed Waste Storage Area	904 PAD	229.40
Unit 63 Drum Storage	371	139.16
Unit 69 Drum/Crate Storage	776	88.69
Unit 59 Crate Counting Facility	569	315.02
Unit 20 Shipping Storage Area	664	1,911.50
Unit 27 Mixed Waste Storage	776	10.41
Unit 73 TRU Drum Storage	774	15.14
Unit 11 Drum Storage	776	255.88
Unit 19 Drum Storage	374	180.45
Unit 24 Mixed Waste Storage	964	466.44
Unit 12 Drum Storage	776	38.04
Unit 28 Storage Area	889	114.69
Central Waste Storage Facility	906	3,288.00
Total		7,330.96

TABLE 25-6.—RFP MIXED WASTE PONDCRETE AND SALTCRETE STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Unit 15 Mixed Waste Storage Area (the PAD)	904 PAD	8,182.00
Unit 21 Pondcrete Storage Area	788	917.52
Unit 25 Mixed Waste Storage Area	750 PAD	10,704.40
Total		19,803.92

DOE's evaluation thus shows that RFP will have sufficient storage capacity for the 10 CBC-applicable low level mixed wastes and five CBC-applicable transuranic mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for RFP.

26. Sandia National Laboratories-Albuquerque (SNLA); Albuquerque, New Mexico

The Sandia National Laboratories-Albuquerque (SNLA) occupies 2,820 acres within Kirkland Air Force Base in Albuquerque. It is a research and development laboratory, primarily dedicated to the design and testing of non-nuclear weapons. Programs include applied research on various aspects of the material and physical phenomena associated with fossil energy conversion, weapons systems development, and nuclear power generation. SNLA is seeking extensions to the effective date for 11 CBC-applicable low level mixed wastes and two CBC-applicable transuranic mixed waste streams that are generated and stored at SNLA as shown in Tables 26–1 and 26–2.

a. *Waste stream and treatment information.* SNLA currently generates both CBC-applicable low level mixed wastes and transuranic mixed wastes; SNLA does not currently generate any CBC-applicable high level mixed wastes. The 11 CBC-applicable low level mixed wastes generated at SNLA have a combined generation rate of 111.84 m^3/yr. As shown in Table 26–1, the 11 CBC-applicable low level mixed wastes fall into four treatability groups which in turn correspond to five treatment technologies.

The combined generation rate of the two CBC-applicable transuranic mixed wastes is 2.20 m^3/yr as shown in Tables 26–2. While DOE plans to store both low level and transuranic mixed wastes at SNLA during the extension period, DOE's long-term management strategy for transuranic mixed wastes is different than for low level mixed wastes. As discussed in section II.A.2.b.(21), DOE plans to store and manage all transuranic mixed wastes at its facilities until such time as the WIPP is able to accept the wastes.

b. *Demonstration 40 CFR 268.5(a)(6).* SNLA has eight storage areas that will be able to accept containerized mixed wastes. DOE states that these facilities have RCRA interim status. The name, building number, and design capacity for each container storage facility are listed in Table 26–3. The total design capacity of these facilities is 9,006 m^3.

TABLE 26–1.—SNLA CBC-APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
U-Contaminated Polymeric Weapons Parts	1.00	D006, D007, D008, D018, D019, D039	Incineration followed by stabilization.
Subtotal	1.00		
Treatability Group No. 11: LLW Water Reactives:			
Equip/Therm Battery Accel., Act./U-Cont.	5.00	D002, D003, D006, D007, D011	Oxidation (thermal, water reaction).
Subtotal	5.00		
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Lead Bricks, Pigs or Sheets	7.00	D008	Lead decontamination and Recycle/ Macroencapsulation.
Subtotal	7.00		
Treatability Group No. 13: LLW TC Metal Inorganic Solids Debris:			
Irrad. Fac. Rad. & Misc. Sources Thirds	10.00	D008	Inorganic debris treatment.
Accelerator Program Activated Thirds	30.00	D003, D008	
Hot Cell Facility Operation Thirds—LLW	0.80	D003, D008	
Reactor/Hot Cell Facility Thirds—LLW	8.00	D003, D004, D006, D008, D009	
DP—Electronic Assemblies (H-3 Cont.)	0.04	D003, D005, D006, D007, D008	
DP—Electronic Assemblies (not H-3 Cont.)	10.00	D003, D004, D005, D006, D007, D008, D009, D010, D011	
Uranium Contaminated Equipment	20.00	D006, D008, D009, D011	
HEPA Filters and Prefilters	20.00	D006, D007, D008	Inorganic debris treatment (continued).
Subtotal	98.84		
Total (all treatability groups)	111.84		

TABLE 26–2.—SNLA CBC-APPLICABLE TRANSURANIC MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes
Hot Cell Facility Operation Thirds—TRU	0.20	D003, D008
Reactor/Hot Cell Facility Thirds—TRU	2.00	D003, D004, D006, D008, D009
Subtotal	2.20	
Total	2.20	

TABLE 26-3.—SNLA MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Area III Aboveground Interim Storage	Area III	2,871.00
Building 819 Storage Area and Vault	819	1,135.00
Explosives Storage Igloos	6007/6011	452.00
Area V Storage Area	6580, SC-1, 6588, 6593	1,800.00
Area III	6920	250.00
Area III Explosive Igloos	Area III	848.00
Manzano Bunkers	7034, 7045, 7055, 7063, 7078, 7118	1,400.00
Area III	6502	250.00
Total		9,006.00

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included both CBC- applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 9,006 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 776 m^3; on May 8, 1993, 992 m^3; and on May 8, 1994, 1208 m^3. DOE's evaluation shows that SNLA will have sufficient container storage capacity for the 11 CBC-applicable low level mixed wastes and two CBC-applicable transuranic mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for SNLA.

27. Sandia National Laboratories—Livermore (SNLL); Livermore, California

The Sandia National Laboratories—Livermore (SNLL) lie about 40 miles east of San Francisco in the Livermore Valley, three miles east of Livermore City Center. SNLL, which occupies about 43 acres, consists of research and development laboratories dedicated to the design and testing of the non-nuclear components of nuclear weapons. A significant fraction of research and development at SNLL is devoted to energy-related programs in the Combustion Research Facility. Its engineering and scientific capabilities are also applied for energy research and technology development for the Department of Defense. SNLL is seeking an extension to the effective date for one CBC-applicable low level mixed waste stream that is generated and stored at SNLL as shown in Table 27-1.

a. Waste stream and treatment information. SNLL currently generates one CBC-applicable low level mixed waste having a generation rate of 0.003 m^3/yr; SNLL does not currently generate any CBC-applicable high level mixed wastes or transuranic mixed wastes. As shown in Table 27-1, the one CBC-applicable low level mixed waste falls into one treatability group which in turn corresponds to one treatment technology.

b. Demonstration 40 CFR 268.5(a)(6). SNLL has one storage facility that will be able to accept containerized mixed wastes. DOE states that this facility has RCRA interim status. The name, building number, and design capacity for the container storage facility is listed in Table 27-2. The total design capacity of this facility is 50 m^3.

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 50 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 1.3 m^3; on May 8, 1993, 1.6 m^3; and on May 8, 1994, 2.0 m^3. DOE's evaluation shows that SNLL will have sufficient container storage capacity for the one CBC-applicable low level mixed waste during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for SNLL.

TABLE 27-1.—SNLL CBC-APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Metals with Tritium & Uranium	0.003	D006, D007, D008, D009	Stabilization.
Subtotal	0.003		
Total (All treatability groups)	0.003		

TABLE 27-2.—SNLL MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Storage Facility	961	50.00

28. Savannah River Site (SRS); Aiken, South Carolina

The Savannah River Site (SRS) is located on 325 square miles along the Savannah River near Aiken, SC. The mission of SRS is to produce basic materials used in the fabrication of nuclear weapons, particularly tritium and plutonium. The site consists of five nuclear materials production reactors, two separation areas for processing irradiated materials, a closed heavy water extraction plant and a heavy water rework plant, a fuel and target fabrication facility, and a research and process development laboratory supporting production and cleanup operations. SRS is seeking extensions to the effective date for 24 CBC-applicable low level mixed wastes and two CBC-applicable transuranic mixed waste streams that are generated and stored at SRS as shown in Tables 28-1, 28-2, and 28-3.

a. *Waste stream and treatment information.* SRS currently generates both CBC-applicable low level mixed wastes and transuranic mixed wastes; SRS does not currently generate any CBC-applicable high level mixed wastes. Sixteen CBC-applicable low level mixed wastes generated at SRS have a combined generation rate of 1,233.431 m^3/yr. The other eight low level mixed wastes are classified as CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes.

The 24 CBC-applicable low level mixed wastes fall into eight treatability groups which in turn correspond to five treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 28-1 for low level mixed wastes that will be generated after May 8, 1992. Treatability groups, waste codes, and existing inventories for the no longer generated mixed wastes are shown in Table 28-2.

The two CBC-applicable transuranic mixed wastes generated at SRS are presented in Table 28-3. The generation rate of the CBC-applicable transuranic mixed wastes is 24.52 m^3/yr.

While DOE plans to store both low level and transuranic mixed wastes at SRS during the extension period, DOE's long-term management strategy for transuranic mixed wastes is different than for low level mixed wastes. As discussed in section II.A.2.b.(21), DOE plans to store and manage all transuranic mixed wastes at SRS until such time as the WIPP is able to accept the wastes.

b. *Demonstration 40 CFR 268.5(a)(6).* SRS has six container storage facilities and five tank storage facilities used to manage CBC-applicable mixed wastes. DOE states that five of the container storage facilities have RCRA interim status; the sixth, building 709-2G, has a RCRA Part B permit. All tanks have RCRA interim status. The name, building number, and design capacity for each of the six container storage facilities that may be used to store CBC-applicable mixed wastes are listed in Table 28-4. The total design capacity of the container storage units is 13,760 m^3. The name, building number, and design capacity for each tank storage facility that may be used to store CBC-applicable mixed wastes are listed in Table 28-5. The total design capacity of the tank storage units is 12,983 m^3.

TABLE 28-1.—SRC CBS-APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation Rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability group No. 1: LLW ignitable liquids—TOC>10%:			
DWPF Benzene	189.000	D001, D009, D018	Incineration (followed by stabilization if necessary).
Subtotal	189.000		
Treatability group No. 6: LLW TC metal organic solid debris:			
Toxic cleanup material	.200	D004, D005, D006, D007, D008, D009, D010, D011	Incineration followed by stabilization if necessary.

TABLE 28-1.—SRC CBS-APPLICABLE LOW LEVEL MIXED WASTE—Continued

Waste stream name	Annual generation Rate (m^3/yr)	EPA waste codes	Treatment technology
Thirds waste <100nCi/g TRU radionuclides	8.100	D001, D003, D004, D006, D007–D009, D011, D018, D019, D022–D026, P012, P015, P048, P113, P120, U002, U032, U052, U080, U133, U134, U144, U151, U154, U1621, U209, U211, U220, U226, U239	
Filter paper take up rolls	15.000	F006	
Subtotal	23.300		
Treatability group No. 9: LLW F006–F009 nonwastewaters:			
Plating line slurry	189.000	F006	Stabilization.
M-Area sludge treatability samples—F006	.200	F006	
Subtotal	189.200		
Treatability group No. 12: LLW radioactive lead solids:			
LLW lead	6.000	D008	Lead decontamination and recycle/macroencapsulation.
Subtotal	6.000		
Treatability group No. 13: LLW TC metal inorganic solid debris:			
Safety/control rods	0.010	D006	Inorganic debris treatment.
Gold traps	1.850	D009	
Cadmium coated HEPA filters	8.500	D006	
Mercury-contaminated equipment	3.850	D009	
ITP filters	.710	D009, D018	
Poisoned catalyst material	.011	D009, D018	
Silver coated packing materials	1.000	D011	
Subtotal	15.931		
Treatability group No. 16: LLW TC metal wastewaters:			
SRL high activity waste	222.000	D002, D007, D008, D009, D018	Ion exchange.
SRL low activity waste	588.000	D002, D007, D008, D009,	018
Subtotal	810.000		
Total (all treatability groups)	1,233.431		

TABLE 28-2.—SRS CBC-Applicable Low Level Mixed Waste No Longer Generated

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids —TOC>10%			
Spent Methanol Solution	D001, D006, D010	0.140	Incineration (followed by stabilization if necessary).
Subtotal		0.140	
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
Mark 15 Filter Paper—F006	F006	0.800	Incineration followed by stabilization.
Subtotal		0.800	
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Plating Line Sump Material	D007	0.200	Stabilization.
Subtotal		0.200	
Treatability Group No. 9: LLW F006, F007, F008, F009 Nonwastewaters:			
Mark 15 Filter Cake—F006	F006	15.400	Stabilization.
Subtotal		15.400	
Treatability Group No. 14: LLW TC Metal Soil:			
Waste Sites/Spill Site Soil	D009	16.000	Stabilization.
Subtotal		16.00	
Treatability Group No. 13: LLW TC Metal Inorganic Solid Debris:			
Spent Filter Cartridges	D009	0.840	Inorganic Debris Treatment.
Subtotal		0.840	
Treatability Group No. 16: LLW TC Metal Wastewaters:			
Uranium and chromium in solution	D007	0.016	ION Exchange.
Mercury Contaminated Heavy Water	D009	8.950	
Subtotal		8.966	
Total (All Treatability Groups)		42.346	

TABLE 28–3.—SRS CBC-APPLICABLE TRANSURANIC MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes
Mixed TTA/Xylene	0.02	D001
Thirds TRU Wastes	24.50	D001, D003, D004, D006–D009, D011, D018, D019, D022–D026, P012, P015, P048, P113, P120, U002, U032, U052, U080, U133, U134, U144, U151, U154, U161, U209, U211, U220, U226, U239
Subtotal	24.52	

TABLE 28–4.—SRS MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Hazardous/Mixed Waste Storage Facility	709–2G	582.00
TRU Storage Pads	PADS 1–5	4,200.00
TRU Storage Pads	PADS 6–17	7,700.00
Mixed Waste Storage Building	643–29G	120.00
Mixed Waste Storage Building	643–49G	1,041.00
Mixed Waste Storage Shed	316–M	117.00
Total		13,760.00

TABLE 28–5.—SRS MIXED WASTE TANK STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
M-Area PWIT/SF	341–1M	12,070.00
SRL Low Activity Waste Tanks	776–2A	127.00
SRL High Activity Waste Tanks	776–2A	127.00
OWST	200–S Area	568.00
Burial Ground Solvent Tanks	Tanks S23–S32	91.81
Total		12,983.81

In the application, DOE has provided information on the container and tank storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes, respectively, at SRS. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Non-CBC-applicable mixed wastes have been factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available container and tank storage capacity.

Against a total container storage capacity of 13,760 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 7,986 m^3; on May 8, 1993, 8,060 m^3; and on May 8, 1994, 8,135 m^3. Against a total tank storage capacity of 12,983 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 6,262 m^3; on May 8, 1993, 7,450 m^3; and on May 8, 1994, 8,733 m^3.

DOE's evaluation shows that SRS will have sufficient container storage capacity for the 24 CBC-applicable low level mixed wastes and two CBC-applicable transuranic mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for SRS.

29. Weldon Springs Remedial Action Project (WELD); St. Charles, Missouri

The Weldon Springs Remedial Action Project (WELD) was developed by the U.S. Army for explosives production during World War II, and operated by the Atomic Energy Commission from 1955 to 1966 as a uranium processing plant. Production activities are no longer ongoing at the site. DOE has been the owner of the property since 1985 and is currently performing remedial activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The quarry portion of the site has been listed on the CERCLA National Priorities List (NPL) since July 1987. The chemical plant and raffinate pits portion of the site have been listed on the NPL since March 1989. WELD is seeking extensions to the effective date for seven no longer generated CBC-applicable low level mixed waste streams that are stored at WELD as shown in Table 29–1.

a. *Waste stream and treatment information.* WELD currently manages seven CBC-applicable low level mixed wastes. None of these mixed wastes are currently generated. These seven mixed wastes are considered CBC-applicable even though DOE projects they will not be generated after May 8, 1992. The reason for including these mixed wastes is that DOE believes they may need to be managed in a manner that constitutes removal from storage during the extension period and therefore become subject to the LDR storage prohibition. These mixed wastes are referred to as no longer generated mixed wastes; WELD does not currently manage any high level mixed wastes or transuranic mixed wastes.

The seven CBC-applicable low level mixed wastes fall into six treatability groups which in turn correspond to three treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 29–1.

b. *Demonstration 40 CFR 268.5(a)(6).* WELD has one storage facility that will be able to accept containerized mixed wastes. DOE has stated that this facility is operated under a CERCLA exclusion permit waiver. The name, building number, and design capacity for this container storage facility is listed in Table 29–2. The total design capacity of this facility is 393 m³.

TABLE 29–1.—WELD CBC-APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC>10%:			
D001	D001	7.911	Incineration (followed by stabilization if necessary).
Subtotal		7.911	
Treatability Group No. 2: LLW P&U Listed Organic Nonwastewaters:			
U228	U228	0.416	Incineration.
Subtotal		0.416	
Treatability Group No. 6: LLW TC Metal Organic Solid Debris:			
D011	D011	0.833	Incineration followed by stabilization.
Subtotal		0.833	
Treatability Group No. 17: LLW TC Pesticides Nonwastewaters:			
D016	D016	0.208	Incineration.
Subtotal		0.208	
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
D005	D005	9.992	Stabilization.
D007	D007	2.500	
Subtotal		12.492	
Treatability Group No. 12: LLW Radioactive Lead Solids:			
D008	D008	1.249	Lead decontamination and recycle/ marcroencapsulation.
Subtotal		1.249	
Total (all treatability groups)		23.109	

TABLE 29–2.—WELD MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m³)
RCRA Storage Area	434	392.00
Total		392.00

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. As shown in the application, no future generation of CBC-applicable or non-CBC-applicable mixed wastes is projected. However, non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity.

Against a total storage capacity of 392 m³, DOE stated that the mixed waste inventories will remain constant at 60 m³ through May 8, 1994. DOE's evaluation shows that WELD will have sufficient container storage capacity for the seven CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for WELD.

30. West Valley Demonstration Project (WVDP); West Valley, New York

The objectives for the West Valley Demonstration Project (WVDP) are to solidify 2.2 million liters (58,000 gallons) of liquid high level mixed wastes stored at the site, develop containers for the solidified high level mixed wastes, transport the solidified high level mixed wastes to a Federal repository, and dispose of and decommission the Project facilities. The Integrated Radwaste Treatment System (IRTS) came on-line in May 1988, and the first phase of liquid high level mixed wastes treatment was completed in March 1991. Over 415,000 gallons of supernatant from the waste tanks were processed through the IRTS. WVDP is seeking extensions to the effective date for nine CBC-applicable low level mixed wastes and one CBC-applicable transuranic mixed waste that are generated and stored at WVDP as shown in Tables 30–1, 30–2, and 30–3.

a. *Waste stream and treatment information.* WVDP currently generates both CBC-applicable low level mixed wastes and transuranic mixed wastes; WVDP does not currently generate any CBC-applicable high level mixed wastes. Eight CBC-applicable low level mixed wastes generated at WVDP have a combined generation rate of 0.004 m³/yr. The other low level mixed waste is classified as CBC-applicable even though DOE projects it will not be generated after May 8, 1992. The reason for including this mixed waste is that DOE believes it may need to be managed in a manner that constitutes removal from storage during the extension period and therefore becomes subject to the LDR storage prohibition. This mixed waste is referred to as no longer generated mixed waste.

The nine CBC-applicable low level mixed wastes fall into five treatability groups which in turn correspond to three treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 30–1 for low level mixed wastes that will be generated after May 8, 1992. The treatability group, waste code, and existing inventory for the no longer generated mixed waste is shown in Table 30–2.

The single CBC-applicable treatment mixed waste is generated at a rate of 0.01 m^3/yr as shown in Table 30–3. While DOE plans to store both low level and transuranic mixed wastes at WVDP during the extension period, DOE's long-term management strategy for transuranic mixed wastes is different than for low level mixed wastes. As discussed in section II.A.2.b.(21), DOE plans to store and manage all transuranic mixed wastes at WVDP until such time as the WIPP is able to accept the wastes.

b. *Demonstration 40 CFR 268.5(a)(6).* WVDP has five storage facilities that will be able to accept containerized mixed wastes. DOE states that the facilities have RCRA interim status. The name, building number, and design capacity for each container storage facility are listed in Table 30–4. The total design capacity of these facilities is 47,051 m^3.

TABLE 30–1.—WVDP CBC-APPLICABLE LOW LEVEL MIXED WASTE

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%:			
Acetone	0.004	D001	Incineration (followed by stabilization if necessary).
Fuel and Oil	0.000	D001	
Site Decontamination Solutions	0.000	D001, D007	
Oils (Lead Containing)	0.000	D001, D008	
Subtotal	0.004		
Treatability Group No. 2: LLW P&U Listed Organic Nonwastewaters:			
Decon Solution (Methylene Chloride)	0.000	U080	Incineration.
Subtotal	0.000		
Treatability Group No. 3—LLW Unquantifiable P&U Listed Organic Nonwastewaters—C,H,O:			
Methanol	0.000	D001, U154	Incineration.
Subtotal	0.000		
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Zinc Bromide	0.000	D002	Stabilization.
Subtotal	0.000		
Treatability Group No. 12: LLW Radioactive Lead Solids:			
Lead	0.000	D008	Lead decontamination and recycle/Macroencapsulation.
Subtotal	0.000		
Total (all treatability groups)	0.004		

TABLE 30–2.—WVDP CBC-APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 1: LLW Ignitable Liquids—TOC > 10%:			
Unknown High TOC Organic Liquids	D001, D018	0.019	Incineration (followed by stabilization if necessary).
Subtotal		0.019	
Total (all treatability groups)		0.019	

TABLE 30–3.—WVDP CBC-APPLICABLE TRANSURANIC MIXED WASTE

Waste stream name	Annual generation rate m^3/yr)	EPA waste codes
PU Extraction Waste	0.01	D001
Subtotal	0.01	
Total (all treatability groups)	0.01	

TABLE 30–4.—WVDP MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
LAG Storage	SWMU–15	1,026.32
LAG Extension—LSA–3	SWMU–16a	22,493.51
LAG Extension—LSA–4	SWMU–16a	22,493.51
IWSF (Interim Waste Storage Facility)	SWMU–11	1,026.33
HWSL (Hazardous Waste Storage Lockers)	SWMU–24	11.56

TABLE 30-4.—WVDP MIXED WASTE CONTAINER STORAGE FACILITIES—Continued

Facility name	Building No.	Design capacity (m^3)
Total		47,051.23

In the application, DOE has provided information on the container storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994).

In its evaluation of the required storage capacity, DOE included both CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. Against a total storage capacity of 47,051 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 5.0 m^3; on May 8, 1993, 5.1 m^3; and on May 8, 1994, 5.2 m^3. DOE's evaluation shows that WVDP will have sufficient container storage capacity for the nine CBC-applicable low level mixed wastes and one CBC-applicable transuranic mixed waste during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for WVDP.

31. Y-12 Plant (Y-12); Oak Ridge, Tennessee

The Y-12 Plant occupies an 811 acre site in the Bear Creek Valley approximately two miles from downtown Oak Ridge, Tennessee. Principal missions of the Y-12 Plant include defense responsibilities related to the production of nuclear weapons components and support to the DOE weapons design laboratories; processing of source and special nuclear materials; and providing support to other governmental agencies. Activities associated with these missions include the recovery of enriched uranium from other DOE sites, the production of lithium compounds, and the fabrication of uranium (enriched and depleted) and other materials into finished parts and assemblies. Y-12 is seeking extensions to the effective date for six CBC-applicable low level mixed waste streams that are generated and stored at Y-12 as shown in Tables 31-1 and 31-2.

a. *Waste stream and treatment information.* Y-12 currently generates five CBC-applicable low level mixed wastes having a combined generation rate of 750.02 m^3/yr. Y-12 has one other low level mixed waste in storage which is classified as CBC-applicable even though DOE projects it will not be generated after May 8, 1992. The reason for including this mixed waste is that DOE believes it may need to be managed in a manner that constitutes removal from storage during the extension period and therefore becomes subject to the LDR storage prohibition. This mixed waste is referred to as no longer generated mixed waste. Y-12 does not currently generate any CBC-applicable high level mixed wastes or transuranic mixed wastes.

The six CBC-applicable low level mixed wastes fall into five treatability groups which in turn correspond to four treatment technologies. Treatability groups, generation rates, and waste codes are shown in Table 31-1 for low level mixed wastes that will be generated after May 8, 1992. The treatability group, waste code, and existing inventory for the no longer generated mixed waste are shown in Table 31-2.

b. *Demonstration 40 CFR 268.5(a)(6).* Y-12 has 11 container storage facilities that will be able to accept containerized mixed wastes. DOE states that these facilities have RCRA interim status. The name, building number, and design capacity for each container storage facility are listed in Table 31-3. The total design capacity of these facilities is 2,044 m^3.

In addition, Y-12 has one tank farm storage facility that will be able to accept mixed wastes as shown in Table 31-4. DOE states that the tank farm is permitted under the Clean Water Act—National Pollutant Discharge Elimination System (NPDES). The total design capacity of this facility is 7,500 m^3.

In the application, DOE has provided information on the container and tank storage capacity needs for CBC-applicable and non-CBC-applicable mixed wastes. This information includes the annual generation rate, 1990 year-end inventory, and projected storage inventory as of May 8, 1992, for each mixed waste. In addition, the application provides estimates of the annual generation rates during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). DOE stated that one mixed waste, waste water treatment spent carbon (F006), is transported to DOE facility K-25 (section 12) for storage. This mixed waste is included in the K-25 storage capacity demonstration as part of K-25 wastewater treatment sludges and spent carbon.

In its evaluation of the required storage capacity, DOE included CBC-applicable and non-CBC-applicable mixed wastes. Non-CBC-applicable mixed wastes are factored into the DOE capacity analysis since they will be competing with CBC-applicable mixed wastes for available storage capacity. For container storage, against a total capacity of 2,044 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 933 m^3; on May 8, 1993, 1,164 m^3; and on May 8, 1994, 1,395 m^3. For tank storage, against a total storage capacity of 7,500 m^3, DOE stated the mixed waste inventories to be on May 8, 1992, 6,386 m^3; on May 8, 1993, 6,999 m^3; and on May 8, 1994, 7,411 m^3.

DOE's evaluation thus shows that Y-12 will have sufficient container and tank storage capacity for the CBC-applicable low level mixed wastes during the course of the extension period (May 8, 1992 to May 8, 1993) and the anticipated extension renewal period (May 8, 1993 to May 8, 1994). Based on the above information, EPA believes that DOE has met the requirements of Demonstration 40 CFR 268.5(a)(6) for Y-12.

TABLE 31-1.—Y-12 CBC-APPLICABLE LOW LEVEL MIXED WASTE BY TREATABILITY GROUP

Waste stream name	Annual generation rate (m^3/yr)	EPA waste codes	Treatment technology
Treatability Group No. 11: LLW Water Reactives:			
Sodium-Potassium (NAK) Waste	0.02	D001, D003	Oxidation (thermal, water reaction).
Subtotal	0.02		
Treatability Group No. 8: LLW TC Metal Nonwastewaters:			
Lead Contaminated Waste	1.00	D008	Stabilization.
Subtotal	1.00		
Treatability Group No. 9: LLW F006-F009 Nonwastewaters:			
Waste Water Treatment Metal Sludges	512.00	F006	Cyanide destruction (if necessary) followed by stabilization.
Waste Water Treatment Spent Carbon	217.00	F006	
Subtotal	729.00		
Treatability Group No. 7: LLW RMW PCB Solids—50 ppm < PCB < 500 ppm:			
Mercury Contaminated Waste	20.00	D009	Incineration followed by stabilization (if necessary).
Subtotal	20.00		
Total (all treatability groups)	750.02		

TABLE 31-2.—Y-12 CBC-APPLICABLE LOW LEVEL MIXED WASTE NO LONGER GENERATED

Waste stream name	EPA waste codes	Inventory as of May 8, 1992	Treatment technology
Treatability Group No. 14: LLW TC Metal Soil:			
Cadmium Contaminated Soil	D006	153.000	Stabilization.
Subtotal		153.000	
Total (all treatability groups)		153.000	

TABLE 31-3.—Y-12 MIXED WASTE CONTAINER STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
Interim Drum Yard	None	213.00
RCRA Staging Area	9720-31	169.00
RCRA and Mixed Waste Storage	9720-9	171.75
Waste Oil Facility, OD-7	9811-1	775.95
Liquid Organic Waste Storage	9720-45	25.00
Waste Oil/Solvent Storage Facility	9811-6	13.30
Container Storage Facility	7820-12	104.00
RCRA and PCB Container Storage Area	None	327.80
Container Storage Area	9201-4	65.00
Waste Storage Facility	9720-25	87.40
Classified Waste Storage Facility	9720-25	92.40
Total		2,044.60

TABLE 31-4.—Y-12 MIXED WASTE TANK STORAGE FACILITIES

Facility name	Building No.	Design capacity (m^3)
West End Tank Farm	None	7,500.00

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federal register

Tuesday
May 26, 1992

Part III

Department of Health and Human Services

Administration for Children and Families

Head Start Public and Indian Housing Child Care Demonstration Project; Grants Availability; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF-HS 93.600-92-2]

Head Start Public and Indian Housing Child Care Demonstration Project; Grants Availability

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), HHS.

ACTION: Announcement of supplemental financial assistance to Head Start grantees, Resident Management Corporations (RMCs) and Resident Councils (RCs) to increase the availability of child care services for residents of Public and Indian housing developments.

SUMMARY: The Head Start Bureau of the Administration on Children, Youth and Families announces that applications from Head Start grantees, RMCs and RCs will be accepted to establish or expand full-day child care services in or near Public or Indian housing developments so that the low-income parents or guardians of children residing in Public or Indian housing may seek, retain or train for employment.

DATES: The closing date for receipt of applications is July 27, 1992.

ADDRESSES: Submit applications to: Head Start/HUD Child Care Demonstration Project, Administration for Children and Families, Division of Discretionary Grants, 200 Independence Avenue, SW., Hubert H. Humphrey Building, room 341F.2, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Clayton D. Roth, Jr., P.O. Box 1182, Head Start Bureau, Washington, DC 20013, Telephone number: (202) 245-0504.

SUPPLEMENTARY INFORMATION:

Part I General Information

A. Background

This announcement solicits applications from current Head Start grantees, RMCs and RCs operating programs in or near Public or Indian housing developments that wish to compete for a portion of the $9,999,850 in grant funds that are available under the Department of Housing and Urban Development's Public Housing Child Care Demonstration Program. These funds are intended for the establishment of child care facilities located in or near Public or Indian housing developments so that the low-income parents or guardians of infants, preschool or school-aged children may seek, retain or train for employment.

B. Program Purpose

The Department of Housing and Urban Development (HUD) has transferred $9,999,850 to ACYF, which will make grant awards to successful applicants. These funds are intended to help Head Start grantees, RMCs and RCs establish full-day child care services for the residents of Public or Indian housing developments. All of these funds will be awarded through a competitive process to agencies that are currently Head Start grantees, RMCs or RCs. However, Head Start grantees will only compete against other Head Start grantees and RMC/RCs will compete only against other RMC/RCs.

Grants will be awarded for a period of 17 months. Recipients of these grant funds will be exempt from the Head Start requirement to match the grant award with 20% non-Federal funds.

Head Start grantees, RMCs or RCs may use these demonstration funds to initiate services or to expand current service hours in one or more centers or family day care homes in order to provide child care in or near Public or Indian housing developments. This announcement anticipates that a likely use of the grant funds will be to create or expand a child care facility in Public and Indian Housing developments or provide the opportunity for Head Start grantees to develop "wrap-around" child care services in housing developments currently participating in part-day Head Start programs. Wrap-around child care services means added hours and days of service can be provided to preschool children already enrolled in a part-day Head Start program. In addition to providing extended child care service hours to enrolled Head Start children, funds from grants awarded under this announcement may be used to initiate child care services for other children who are residents of a Public or Indian housing development, including infants, Head Start eligible and non-Head Start eligible preschool children, children who need before and/or after-school care, and the siblings of Head Start children. These funds may also be used for the leasing of vehicles and/or equipment and for minor renovations of child care facilities located in or near Public or Indian housing developments.

As current Head Start programs plan major expansions in enrollment, they should contact their local Public Housing Agency or Indian Housing Authority, RMC or RC which exist at the housing site to discuss ways in which Head Start might better serve residents of Public or Indian housing developments. These could include applying for the child care demonstration funds to be awarded under this announcement and using them, along with Head Start expansion funds, to locate new child care centers, Head Start classrooms or family day care homes in or near Public or Indian housing developments.

C. Definitions

Head Start is a national program providing comprehensive developmental services primarily to preschool children of low-income families. To help enrolled preschool children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. In addition, Head Start programs are required to provide for the direct participation of parents of enrolled preschool children in the development, conduct, and direction of local programs. Head Start currently serves approximately 622,000 children through a network of 1,346 grantees.

In accordance with 24 CFR 964.7 (for Public Housing) and 24 CFR 905.355 (for Indian Housing), the following definitions for a Resident Council (RC) and Resident Management Corporation (RMC) apply:

A Resident Council (RC) is an incorporated nonprofit organization or association that meets each of the following requirements:

(1) It must be representative of the tenants it purports to represent;

(2) It may represent tenants in more than one project or in all of the projects of a Public Housing Agency (PHA) or Indian Housing Authority (IHA), but it must fairly represent tenants from each project that it represents;

(3) It must adopt written procedures providing for the election of specific officers on a regular basis (but at least once every three years);

(4) It must have a democratically elected governing board; and

(5) The voting membership of the governing board must consist of tenants of the project or projects that the tenant organization or RC represents.

A Resident Management Corporation (RMC) is an entity that proposes to enter into, or enters into, a management contract with a PHA/IHA that meets the requirements of subpart C of 24 CFR part 964 and 24 CFR 905.355. The RMC must have each of the following characteristics:

(1) It must be a nonprofit organization that is incorporated under the laws of

the State or Indian Tribe in which it is located;

(2) It may be established by more than one tenant/resident organization or RC, so long as each organization or council:

(a) Approves the establishment of the corporation; and

(b) Has representation on the Board of Directors of the corporation;

(3) It must have an elected Board of Directors;

(4) Its by-laws must require the Board of Directors to include representatives of each tenant organization or RC involved in establishing the corporation;

(5) Its voting members must be tenants of the project or projects it manages;

(6) It must be approved by the RC. If there is no council, a majority of the households of the project must approve the establishment of an organization to determine the feasibility of establishing a corporation to manage the project; and

(7) It may serve as both the RMC and RC, so long as the corporation meets the requirements of a RC, as defined above.

D. Statutory Authority

42 U.S.C. 9831, et seq..	The Head Start Act, as amended.
31 U.S.C. 1535.....	The Economy Act.
Pub. L. 100-628, Section 1002.	Stewart B. McKinney Homeless Assistance Act, sections as amended.
Pub. L. 100-242, Section 117.	Housing and Community Development Act of 1987, Public Housing Child Care Demonstration Program.
Pub. L. 98-181, Section 222.	The Housing and Urban Rural Recovery Act of 1983.

E. Available Funds

This announcement solicits applications from Head Start grantees, RMCs or RCs that wish to apply for a portion of the $9,999,850 in grant funds that are available under HUD's Public Housing Child Care Demonstration Program through ACYF. Approximately $1,500,000 of these funds have been set aside for child care grants to RCs and RMCs under this announcement. The remainder of these funds, approximately $8,499,850, will be awarded to Head Start grantees. In addition, any grant funds remaining from the RC/RMC set aside will be awarded to the Head Start grantee applicants.

Within the framework of a competitive grant review process, consideration will be given to an equitable geographic distribution of the grants between urban, tribal and rural areas. The Departments of HUD and Health and Human Services (HHS) will ensure that at least several of these centers and/or family day care homes are located in rural and Tribal areas.

Individual grants awarded under this announcement shall not exceed $300,000 to ensure that funds are provided to as large a number of Head Start grantees, RMCs or RCs and as many Public and Indian housing developments as possible. It should be noted that, while an applicant may apply for funds to establish or expand services in more than one center, no single center will be funded for more than $150,000 for the purpose of this demonstration project. The grants are intended to cover operating expenses or one-time renovation costs and will be funded for a period of 17 months.

F. Eligible Applicants

Applicants must be current Head Start grantees, RMCs or RCs that wish to locate facilities in or near Public or Indian housing developments by: (1) Establishing one or more full-day child care centers or family day care homes, or (2) expanding current part-day centers. As stated above, Head Start grantees and RMC/RCs will compete in separate pools.

Head Start grantees, RMCs or RCs may decide to directly operate one or more full-day child care centers and/or family day care homes or they may decide to establish a subgrant or delegate agency contractual arrangement between themselves. Head Start grantees may establish a delegate agency contractual arrangement with another non-profit or public agency supported by the local Public Housing Agency or Indian Housing Authority which will operate one or more full-day child care centers. Head Start grantees, RMCs or RCs may also consider developing contractual arrangements with family-based child care facilities which meet State and local licensing standards. Family-based facilities may be in the homes of one or more residents of a Public or Indian housing development.

Part II Special Requirements

Current Head Start grantees, RMCs or RCs that are interested in expanding child care programs, or existing part-day service hours to a full-day child care program, and that operate programs in or near a Public or Indian housing development, are encouraged to apply for these funds. Interested applicants must adhere to the following HHS/HUD requirements when developing a proposal:

(1) Head Start grantees must consult with the appropriate Public Housing Agency (PHA) or Indian Housing Authority (IHA) and, where it exists, the Resident Council/Resident Management Corporation (RC/RMC) as to the feasibility of initiating child care services in the housing development. Where RMCs/RCs exist, Head Start grantees shall consult and give full consideration to RMC/RC expressions of interest in becoming a delegate agency. Applicants may not apply for funds to support services in sites that were funded through the FYs 1988 and 1989 Public Housing Child Care Demonstration Program and the 1991 Head Start-HUD Child Care Demonstration Project.

If the center or family day care home is to be located in a Public or Indian housing development, the Head Start grantee, RMC or RC must reach an agreement with the PHA or IHA to provide, at nominal or no cost, suitable facilities to the Head Start grantee, RMC or RC for the provision of full-day child care services.

(2) The demonstration program should not propose to serve children of the same ages as those currently being served by an existing child care program in the targeted Public or Indian housing development. This prohibition does not apply to those applicants who propose to extend the hours of child care services provided by a center already located in the development.

(3) Funds may only be used for operating expenses, leasing of equipment or vehicles and minor renovations of centers or family day care homes necessary to provide full-day child care services.

(a) Operating expenses include planning and development costs, administration, leasing of equipment and/or vehicles, maintenance, minor or routine repairs, security, utilities, furnishings, equipment and supplies, insurance, staff salaries, etc.

If grant funds are to be used for operating expenses for a full-day child care center or family day care home, applications must explain how operating expenses will continue to be funded on an ongoing basis without HUD or Head Start funds, after the conclusion of the demonstration.

(b) Minor renovations include the reconfiguration of space; installation of bathrooms or kitchens; renovations necessary to achieve compliance with physical accessibility standards for the disabled or required to meet State, Tribal or local licensing and building code standards; landscaping; painting; and lighting. Minor renovation does not include the cost associated with lead-based paint abatement since removal of

lead-based paint is funded through another HUD program.

(4) Applicants may consider generating income from the child care services provided from funds awarded under this announcement by charging families reasonable fees for services not provided under the Head Start program. These fees may be based on a sliding fee scale that corresponds to the parent's income.

(5) The full-day child care services program must:

(a) Hire staff who have received appropriate training or have experience in early childhood education and, to the extent practicable, provide opportunities for the employment of residents from the public or Indian housing development area, especially elderly residents;

(b) Involve the parents of children benefiting from such program, to the extent practicable, as volunteers in the classroom; and

(c) Comply with all applicable State, tribal and local laws, regulations and ordinances and, during the portion of the day that Head Start services are provided, where applicable, comply with all Head Start Performance Standards.

Part III Specific Responsibilities of the Applicant

When submitting a proposal under this announcement, applicants should:

(1) Demonstrate that there is a need for assistance. All applicants must clearly document the need for providing full-day child care services for infants or preschool children and/or part-day child care services for school-aged children who reside in a Public or Indian housing development. The application should demonstrate how the child care services will assist the parents or guardians of these children to seek, retain or train for employment.

(2) Indicate how they will identify families and children who are in need of full-day child care services in the Public or Indian housing development. (Families who are recipients of HUD's section 8 funds are not eligible for the child care services provided by this announcement.)

(3) Identify which Public or Indian housing development the applicant is proposing to serve. The age group and the number of children in each age group proposed for full-day child care must be clearly specified. The application should also explain how priority will be given to serving children residing in the development.

(4) Demonstrate how the Public or Indian housing community will benefit from the full-day child care services provided. The application should also describe what measures will be taken to ensure the safety of the children and staff participating in the demonstration effort.

(5) Demonstrate the collaborative effort existing between the applicant (the Head Start grantee, the RC or the RMC) and the parents, service agency providers and other community members in the development and planning of the application. The applicant should discuss the extent to which residents participated in the design of the activities proposed to be funded.

(6) Demonstrate that the RMC, RC or Head Start grantee has the ability and experience to administer a full-day child care program.

(7) Explain how the new full-day child care services will be implemented in a timely and efficient manner. This includes explaining how eligible children and families will be recruited and assuring that the available classroom space or family day care home meets required licensing standards. Explain the process by which the full-day child care center or family day care home will become operational within a reasonable period of time during the demonstration phase.

(8) Demonstrate contractual arrangements made with other non-profit organizations and local Public or Indian housing authorities or supportive service agencies which will assist the applicant in providing quality full-day child care services. If the proposed child care facility is located on the site of the housing development, the application must contain a signed statement from the local PHA/IHA which commits space and/or renovation funds to the establishment/expansion of that child care facility. If the applicant is a Head Start grantee which has an arrangement with a RMC/RC, the Head Start grantee must provide a letter of understanding from the RMC/RC which verifies and defines the RMC/RC participation in this demonstration effort. The RMC/RC applicant is encouraged to work with the local Head Start grantee in designing its proposed child care program.

(9) Demonstrate how qualified staff (who have received appropriate training or have experience in early childhood education) will be hired and, to the extent practicable, provide opportunities for the employment of residents from the Public or Indian housing development, especially elderly residents.

(10) Provide a reasonable staffing pattern and identify all proposed staff, their proposed salary rates and the periods for which they will be employed.

(11) Explain how quality full-day child care services will continue to be provided at a reasonable cost at the end of the demonstration period.

(12) Explain what other resources in the community will help support the proposed full-day child care program, including letters of commitment. The application must describe the extent to which funds, staff or in-kind services and other sources in the local community, especially local businesses, have been committed to the demonstration effort during the implementation stages and at the end of the initial funding period.

Part IV Criteria for Review and Evaluation of the Grant Application

The following are the criteria for the review and evaluation of grant applications which the Departments of HHS and HUD will use in selecting Head Start grantees, RCs, and RMCs for participation in this HHS/HUD demonstration project.

1. *Objectives and Need for Assistance* (20 points)

The extent to which the application pinpoints any relevant physical, economic, social, financial, institutional, or other problems requiring a grant; demonstrates the need for assistance; states the principal and subordinate objectives of the project; and provides supporting documentation or other testimonies from concerned interests other than the applicant.

Information provided in response to part II, (2) and part III, (1) and (2) of this announcement will be used to review and evaluate applicants on the above criterion.

2. *Results or Benefits Expected* (15 points)

The extent to which the application identifies results and benefits to be derived and describes the anticipated contribution to policy, practice, theory and/or research.

Information provided in response to part II, 5 (a) and (b) and part III, (4) will be used to review and evaluate applicants on the above criterion.

3. *Approach* (35 points)

The extent to which the application outlines an acceptable plan of action pertaining to the scope of the project; details how the proposed work will be accomplished and lists each organization, consultant, and other key individuals who will work on the project, along with a short description of the nature of their effort or contribution; and details a plan for employing residents of the applicant's proposed service area.

Information provided in response to part II (5)(c) and part III, (5), (6), (7), (8),

(9), and (10) of this announcement will be used to review and evaluate applicants on the above criterion. All applicants who propose establishing or expanding a child care facility within a housing development must demonstrate that the local PHA/IHA is committed to providing the applicant the necessary space and/or renovation funds for the proposed child care site. Applicants who are Head Start grantees which have an arrangement with a RMC/RC should describe the extent of the involvement of the RC/RMC in the program design and implementation of the proposed child care services. Applicants who are RMCs/RCs seeking to establish full-day child care services within the housing development are encouraged to work with the local Head Start grantee in designing the proposed program and during the initial implementation of the RMC/RC child care project.

Five of the 35 points available under this criterion will be assigned to those applicants who are Head Start grantees which have documented that a subgrant or delegate agency contract exists or will exist with a RMC, RC, PHA or IHA for the purposes of this demonstration effort.

Five of the 35 points available under this criterion will be assigned to those applicants who are RMCs or RCs which have documented that a cooperative arrangement exists or will exist with a Head Start grantee for the purposes of this demonstration effort.

Each application for funding must include a plan for addressing the problem of child care on or near the Public or Indian housing development which includes initiatives that can be sustained after the demonstration phase.

4. *Geographic Location* (5 points)

The extent to which the application gives a precise location of the project and area to be served by the proposed project and describes the families to be served.

Information provided in response to part II, (1) and part III, (3) of this announcement will be used to review and evaluate applicants on the above criterion.

5. *Budget Appropriateness and Reasonableness* (25 points)

The extent to which the project's costs are reasonable in view of the activities to be carried out and the anticipated outcomes.

Information provided in response to part II, (3) and (4) and part III, (10), (11) and (12) of this announcement will be used to review and evaluate applicants on the above criterion.

Ten of the 25 points available under this criterion will be assigned based on the extent to which the applicant provides assurances or firm commitments from community sources to continue the project funding beyond the demonstration phase.

The extent to which the applicant's strategy is realistic, given the amount of funding requested in relation to the overall strategy, and the timetable indicated by the applicant for beginning and completing each component of the strategy; the extent to which the applicant provides a line-item budget for each category of expenses to implement its strategy and describes the financial and other resources (as applied for under this Announcement and from other sources) that may be reasonably expected to be available to carry out the program; and the extent to which the applicant describes how child care services will be coordinated and complemented by current supportive services.

Each applicant must set aside a realistic amount in its budget (up to $1,500) for travel to Washington, DC for one person to participate in a national child care conference to be held for three days sometime during the 17 month duration of the demonstration project.

Part V Application Process

A. Availability of Forms

Eligible applicants interested in applying for funds must submit all of the required forms included at the end of this Announcement.

In order to be considered for a grant under this Announcement, an application must be submitted on the Standard Form 424 which has been approved by the Office of Management and Budget (OMB) under Control Number 0348–0043. A copy has been provided (see appendix B). Each application must be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Appendix C contains certification forms regarding drug free work place, debarment, and lobbying. Only the certification regarding lobbying must be signed and returned with the application. Applications must be prepared in accordance with the guidance provided in this Announcement.

B. Application Submission

One signed original and two copies of the grant application, including all attachments, are required. The program announcement number (ACYF–HS 93.600–92–2) must be clearly identified on the application. Each application must be limited to no more than 50 double-spaced pages of program narrative. The application must be paginated beginning with the Form 424 and also contain a table of contents listing each section of the application with the respective pages identified. Only one application per applicant will be accepted.

C. Application Consideration

Applicants will be scored against the evaluation criteria described above. The review will be conducted in Washington, DC. Reviewers will be selected from lists of Public and Indian housing specialists, including national organizations such as the National Association of Housing Redevelopment and Housing Officials (NAHRHO), Council of Large Public Housing Agencies (CLPHA), National American Indian Housing Council (NAIHC), National Association of Resident Management Corporations (NARMC), and Public Housing Agency Directors Association (PHADA). Additionally, reviewers will be persons knowledgeable about the Head Start program and early childhood education and development, including parents of Head Start children, Federal staff, and other experts such as university staff or staff of child development projects.

Applicants which are Head Start grantees will compete only against other Head Start grantees while applicants which are RCs/RMCs will compete only against other RCs/RMCs. Discrete funds have been set aside for each of the two areas of competition.

The results of the competitive review will be taken into consideration by the Associate Commissioner, Head Start Bureau, and the Assistant Secretary, Office of Public and Indian Housing, who, in consultation with ACYF and HUD Regional officials, will recommend projects to be funded. The Commissioner of ACYF will make the final selection of the applicants to be funded. Applications may be funded in whole or in part depending on the relative need for services, applicant ranking, geographic location and funds available.

The Commissioner may elect not to fund Head Start grantees who are in high risk status as of the closing date of this Announcement or those applicants that have management, fiscal, or other problems and situations which make it unlikely that they would be able to provide effective full-day child care services. The Commissioner may also elect not to provide funding to applicants experiencing problems in

providing quality services. Projects in tribal, rural and urban areas will be selected.

Successful applicants will be notified through the issuance of a Financial Assistance Award which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, and the total project period for which support is provided.

D. Receipt of Applications

1. Deadlines

Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date at the ACF Division of Discretionary Grants (DDG), or

b. Sent on or before the deadline date and received by the granting agency in time for them to be considered during the competitive review and evaluation process under Chapter 1–62 of the Health and Human Services Grants Administration Manual.

(Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

2. Applications Submitted by Other Means

Applications which are not submitted in accordance with the above criteria shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date. Hand delivered applications will be accepted at the ACF Division of Discretionary Grants during the normal working hours of 8:30 a.m. to 5 p.m., Monday through Friday.

3. Late Applications

Applications which do not meet one of these criteria are considered as late applications. The Head Start Bureau will notify each late applicant that its application will not be considered.

4. Extension of Deadline

The Head Start Bureau may extend the deadline for all applicants because of Acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if the Head Start Bureau does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

E. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0348–0043.

F. Executive Order 12372—Notification Process

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under Executive Order 12372, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. All States and territories except Alaska, Idaho, Kansas, Louisiana, Minnesota, Nebraska, Pennsylvania, Oregon, Virginia, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs).

Applicants from these eleven areas need take no action regarding Executive Order 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are exempt from the requirements of Executive Order 12372. Otherwise, applicants should contact their SPOC as soon as possible to alert them to the prospective application and to receive any necessary instructions. Applicants must submit any required material to the SPOC as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the SF 424, item 16.

SPOCs have 60 days from the application deadline date to comment on applications submitted under this announcement. The comment period for State processes will end on September 23, 1992 to allow time for ACF to review, consider, and attempt to accommodate SPOC input. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 200 Independence Avenue, SW., room 341F.2, Hubert H. Humphrey Building, Washington, DC 20201. ACF will notify the State of any application received which has no indication that the State process has had an opportunity for review.

A list of SPOCs for each State and territory is included at appendix A at the end of this announcement.

G. Effective Date

Successful applications shall be funded no later than September 30, 1992.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: May 14, 1992.

Wade F. Horn,

Commissioner, Administration on Children, Youth and Families.

Appendix A—State Single Points of Contact

Alabama

Mrs. Moncell Thornell, State Single Point of Contact, Alabama Department of Economic & Community Affairs, 3465 Norman Bridge Road, Post Office Box 250347, Montgomery, Alabama 36125–0347, Telephone (205) 284–8905.

Arizona

Ms. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315.

Arkansas

Mr. Joseph Gillesbie, Manager, State Clearinghouse, Office of Intergovernmental Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 371–1074.

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480.

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Telephone (303) 866–2156.

Connecticut

Under Secretary, Attn: Intergovernmental Review Coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street,

Hartford, Connecticut 06106–4459, Telephone (203) 566–3410.

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326.

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Room 416, District Building, 1350 Pennsylvania Avenue, NW., Washington, DC 20004, Telephone (202) 727–9111.

Florida

Karen McFarland, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8114.

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, SW., Atlanta, Georgia 30334, Telephone (404) 656–3855.

Hawaii

Mr. Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development, Office of the Governor, State Capitol—Room 406, Honolulu, Hawaii 96813, Telephone (808) 548–5893, FAX (808) 548–8172.

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Telephone (217) 782–8639.

Indiana

Frank Sullivan, Budget Division, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610.

Iowa

Steven R. McCann, Division for Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725.

Kentucky

Debbie Anglin, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor Capital Plaza Tower, Frankfort, Kentucky 40601, Telephone (502) 564–2382.

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261.

Maryland

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490.

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities & Development, 100 Cambridge Street, room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001.

Michigan

Milton O. Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Telephone (517) 373–7111.

Please direct correspondence to: Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O. Box 30242, Lansing, Michigan 48909, Telephone (517) 373–6223.

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Telephone (601) 960–4280.

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834.

Montana

Deborah Stanton, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station, Room 202—State Capitol, Helena, Montana 59620, Telephone (406) 444–5522.

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, ATTN: John B. Walker, Clearinghouse Coordinator.

New Hampshire

Jeffery H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155.

New Jersey

Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613.

Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025.

New Mexico

Aurelia M. Sandoval, State Budget Division, DFA, Room 190, Bataan Memorial Building, Sante Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3006.

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605.

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733–0499.

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Telephone (701) 224–2094.

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698.

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Telephone (405) 843–9770.

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656.

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0493.

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773–3212.

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676.

Texas

Tom Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778.

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535.

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326.

Washington

Marilyn Dawson, Washington Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Mail Stop GH–51, Olympia, Washington, 98504–4151, Telephone (206) 753–4978.

West Virginia

Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010.

Wisconsin

William C. Carey, Federal/State Relations, IGA Relations, 101 South Webster Street, P.O. Box 7864, Milwaukee, Wisconsin 53707, Telephone (608) 266–1741.

Please direct correspondence and questions to: William C. Carey, Section Chief, Federal/State Relations Office, Wisconsin Department of Administration, (608) 266–0267.

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Telephone (307) 777–7574.

Territories

Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285.

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950.

Puerto Rico

Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444.

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 & 33 Kongens Gade, Charlotte Amalie, V.I. 00802, Telephone (809) 774–0750.

For OMB Purposes Only, File originated: 9–2–88, "Contacts"

BILLING CODE 4130–01–M

APPENDIX B

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE_____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4310-01-C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letters(s) in the space(s) provided:

—"New" means a new assistance award.

—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4130-01-M

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g).

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR part 900, subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a–7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (Pub. L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of the 1974, as amended, (Pub. L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (Pub. L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with Public Law 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (Pub. L. 89–544, as amended, 7 U.S.C. 2131 et seq.)

pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

BILLING CODE 4130-01-M

APPENDIX C

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4130-01-C

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction," provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

[FR Doc. 92-12128 Filed 5-22-92; 8:45 am]
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federal register

Tuesday
May 26, 1992

Part IV

Department of Education

Demonstration Projects for the Integration of Vocational and Academic Learning Program (Model Tech-Prep Education Projects); Notice

DEPARTMENT OF EDUCATION

Demonstration Projects for the Integration of Vocational and Academic Learning Program (Model Tech-Prep Education Projects)

AGENCY: Department of Education.

ACTION: Notice of final priority, selection criteria, and other requirements for Fiscal Year 1992.

SUMMARY: The Secretary of Education announces a priority for a grant competition for awards to be made in fiscal year (FY) 1992 using funds appropriated in FY 1991 for the Demonstration Projects for the Integration of Vocational and Academic Learning Program, authorized by section 420 of the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act), 20 U.S.C. 2301 *et seq.* as amended by Public Law 101–392, 104 Stat. 753 (1990). Under the absolute priority, all funds for the competition will be reserved for applications proposing to demonstrate model tech-prep education programs. To be considered for funding, a proposed project must be based on successfully designed, established, and operating tech-prep education programs that integrate vocational and academic learning and that will serve as models for programs being developed under the State-Administered Tech-Prep Education Program. The Secretary prohibits the use of Federal funds received under this program to cover the costs of equipment. Lastly, the Secretary establishes other requirements and new selection criteria for evaluating applications submitted for this competition only.

EFFECTIVE DATE: The provisions in this notice take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these provisions, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Richard F. DiCola, U.S. Department of Education, 400 Maryland Avenue SW., room 4512—MES, Washington, DC 20202–7242. Telephone: (202) 732–2362. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Section 420 of the Perkins Act provides for the development, implementation, and operation of programs using different models of curricula that integrate vocational and academic learning. One area in which the integration of vocational and academic learning is vital to the success of projects is tech-prep education. The Perkins Act requires projects funded under the State-Administered Tech-Prep Education Program (Title III, Part E, of the Perkins Act) to provide technical preparation in a particular field and to "build student competence in mathematics, science, and communications (including through applied academics) through a sequential course of study * * *" Moreover, the widespread interest in, and need for, integrating vocational and academic learning and in tech-prep education supports establishing a priority for tech-prep education programs under the Demonstration Projects for the Integration of Vocational and Academic Learning Program in order to provide meaningful direction, resources, and expertise to others wanting to replicate these models.

The Secretary wishes to highlight for potential applicants that this priority also helps further the purposes of AMERICA 2000, the President's education strategy to help America move itself toward the National Education Goals. The integration of vocational and academic learning in tech-prep education projects directly supports National Education Goal 5—ensuring that every adult American will be literate and possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. The integration of vocational and academic learning also contributes to the President's objective—as stated in Track III of the AMERICA 2000 strategy ("Transforming America into 'A Nation of Students' ")—of reviewing current Federal job training efforts and identifying successful ways of motivating and enabling individuals to receive the comprehensive services, education, and skills necessary to achieve economic independence.

Background on Tech-Prep Program

Under the State-Administered Tech-Prep Education Program authorized by title III, part E, of the Perkins Act, the States award grants to consortia of local educational agencies and postsecondary educational institutions to develop and operate tech-prep education programs. Congress appropriated $63,434,000 in FY 1991 and $90,000,000 in FY 1992 for this purpose.

Section 347(3) of the Perkins Act defines a "tech-prep education program," for purposes of the State-administered program, as a combined secondary and postsecondary program that—

(a) Leads to an associate degree or two-year certificate;

(b) Provides technical preparation in at least one field of engineering technology, applied science, mechanical, industrial, or practical art or trade, or agriculture, health, or business;

(c) Builds student competence in mathematics, science, and communications (including through applied academics) through a sequential course of study; and

(d) Leads to placement in employment.

The local projects funded under the State-Administered Tech-Prep Education Program are intended to be developmental in nature, with each local project being authorized to acquire, as part of its planning activities, technical assistance from State or local entities that have successfully designed, established, and operated tech-prep education programs.

Projects Demonstrating the Integration of Vocational and Academic Learning in Tech-Prep

The purpose of this priority, which will fund federally administered tech-prep demonstration projects, is to provide for evaluations of the funded projects, and to support models and other forms of assistance for the local projects to be funded under the State-administered program as well as for other localities that may not receive these funds. Unlike State and locally funded projects, which are primarily developmental in nature, the projects funded under this priority will—

(1) Be based on existing programs that demonstrate success through evidence of student achievement, completion, and placement rates;

(2) Conduct rigorous evaluation activities, which may include refining existing data or collecting additional data to yield results that can be submitted to the Secretary for review by the Department's Program Effectiveness Panel;

(3) Demonstrate curricula and courses that integrate vocational and academic learning; and

(4) Provide resources, materials, technical assistance, inservice training, and other forms of professional development to help others replicate successful tech-prep education programs.

Pursuant to section 420 of the Perkins Act, the model tech-prep education projects that are funded under this competition, among other things, must demonstrate programs using different

models of curricula that integrate vocational and academic learning by—

(1) Designing integrated curricula and courses;

(2) Providing inservice training for teachers and administrators in integrated curricula; and

(3) Disseminating information regarding effective integrative strategies to other school districts through the National Diffusion Network (NDN) established under section 1562 of the Elementary and Secondary Education Act of 1965.

On January 2, 1992, the Secretary published in the **Federal Register** (57 FR 153) a notice of proposed priority for the Demonstration Projects for the Integration of Vocational and Academic Learning Program (Model Tech-Prep Education Projects).

Note: This notice of final priority does *not* solicit applications. A notice inviting applications under this competition is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priority, 16 parties submitted comments. An analysis of the comments and of the changes in the priority, selection criteria, and other requirements follows. Except for a change made to clarify that preparatory services must be provided for all populations in State-Administered Tech-Prep Education Programs, for which this priority is to provide models, no substantive changes have been made. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Absolute Priority

Comments: Five commenters specifically supported the proposed priority. Three commenters recommended that the Secretary not limit awards to tech-prep education programs. Two of these commenters believed that establishing a priority for tech-prep education would be contrary to the program's purpose of funding a variety of vocational and academic learning integration models. Two of the commenters also observed that the priority would disqualify many prospective applicants that are integrating vocational and academic education, but that have not yet developed the secondary-postsecondary articulation required for a tech-prep education program model.

Discussion: As stated in the "Supplementary Information" section of the notice, the purpose of this priority is to provide for evaluations of funded projects and to support models and other forms of assistance for the local projects to be funded under the State-Administered Tech-Prep Education Program as well as for other localities that may not receive these funds. Given the large amount of funds that Congress has appropriated for the State-administered program, it is important to provide evidence of the impact of the tech-prep education model in terms of student achievement, completion, and placement rates. Applications for funding under the Demonstration Projects for the Integration of Vocational and Academic Learning Program will be required to provide this evidence in the form of a summary of proposed evaluation activities and results that can be reviewed by the Department's Program Effectiveness Panel.

Additionally, the investment that is being made in tech-prep education warrants the identification of models that can help others replicate successful tech-prep education programs. The priority for tech-prep education projects under the Demonstration Projects for the Integration of Vocational and Academic Learning Program is intended to accomplish this goal by complementing, and not duplicating, the purposes and activities of projects funded under the State-Administered Tech-Prep Education Program.

Regarding the program requirement to fund projects using different models of curricula that integrate vocational and academic learning, the Secretary anticipates that the model tech-prep education projects will demonstrate considerable variety in the types of curricula they are using to integrate vocational and academic learning within their tech-prep education programs, similar to the way that projects funded under the State-administered program are reflecting a variety of integrated curricula within their tech-prep education programs.

Changes: None.

Comments: One commenter questioned whether the requirements for funding under title III, part E, of the Perkins Act restricted the applicants' eligibility to tech-prep consortia or whether State educational agencies, colleges, universities, and others are also eligible to apply. Two additional commenters recommended specifying that "comprehensive high schools" are eligible. A fourth commenter recommended restricting the competition to tech-prep education programs being developed by consortia that have received awards under the State-Administered Tech-Prep Education Program.

Discussion: Restricting eligibility to applicants that will demonstrate programs that meet the requirements for funding under title III, part E, of the Perkins Act will not have the effect of restricting eligibility to tech-prep consortia. Under section 420(a) of the Perkins act, institutions of higher education, area vocational education schools, local educational agencies, secondary schools funded by the Bureau of Indian Affairs, State boards, public or private nonprofit organizations, or any consortia of these entities are eligible to apply for funds under this competition. Moreover, the secretary notes that, if a comprehensive high school is not within the definition of a "local educational agency" set forth in section 521(b) of the Perkins Act, a comprehensive high school operated by a local educational agency or other eligible entity would be considered eligible.

Eligible applicant entities may be involved in projects in a number of ways, either as a member of a consortium eligible under the State-Administered Tech-Prep Education Program, as part of a joint application with an eligible consortium, or in some other third-pary relationship with an eligible consortium to demonstrate the success of the consortium's tech-prep education project.

The Secretary does not wish to further restrict the competition either to consortia that have received funds under the State-Administered Tech-Prep Education Program or, as the commenter has implied, to consortia that are eligible for funding under the State-administered program. First, there undoubtedly are highly successful tech-prep education programs in operation that have not received funding under the State-administered program. Second, projects funded under the State-administered program are intended to be largely developmental in nature. Although some operating tech-prep education programs may be receiving funds under the State-administered program, most are probably in the planning or implementation phases. Thus, few of the State-administered program projects would be expected to have been in operation long enough to be able to provide the empirical data regarding student achievement, completion, and placement set forth in selection criterion (b)—educational significance.

Changes: None.

Comments: One commenter was concerned that the tech-prep program is restricted to sequences of study

beginning in the eleventh grade because they believed that students' success in tech-prep education programs could be enhanced by exposing students to more academically rigorous courses and applied teaching techniques before they enroll in tech-prep education programs. The commenter recommended that projects be allowed to use tech-prep education program funds to restructure curriculum and to provide career counseling and vocational assessment to students enrolled in the ninth and tenth grades.

Discussion: The Secretary agrees that students below the eleventh grade can benefit from more rigorous academic courses. Funds for this priority are intended to support projects that can serve as models for State-administered tech-prep projects supported under section 344 of the Perkins Act. Although projects under section 344 are limited to four-year tech-prep education programs consisting of the two years of secondary school preceding graduation followed by two year of higher education or two or more years in an apprenticeship program, the Secretary has determined that preparatory services, which are defined in section 521(24) of the Act, must be provided to potential candidates for projects assisted under the State-Administered Tech-Prep Education Program.

Thus, models demonstrated under this priority must provide preparatory services, such as career counseling and vocational assessment, for ninth and tenth grade students. However, the Secretary notes that this priority reserves funds for projects that "demonstrate" successful models and that only the incremental costs of the demonstration and evaluation activities will be paid.

Changes: The Secretary has changed the description of the State-Administrated Tech-Prep Education Program to reflect that tech-prep education programs must provide for preparatory services that assist all populations in the programs.

Comments: One commenter recommended providing inservice training in integrated curricula to academic faculty in addition to vocational education teachers. The commenter pointed out that, in order to integrate vocational and academic learning, the concepts of "vocational" and "academic" need to be expanded and that tradional boundaries between the two areas must be broken. Noting that both vocational and academic instructions must cross over into the other realm in order for effective integration to occur, and that counselors must also understand curriculum offerings in order to properly advise students, the commenter recommended that projects provide inservice training to all teachers, counselors, and administrators involved in integrated curriculum efforts.

Discussion: The Secretary agrees that, in order to integrate vocational and academic learning, projects should provide inservice training for both academic and vocational instructors. The priority and required activities permit both academic and vocational teachers to receive this type of training, provided they are teachers of vocational education students.

Although the Secretary agrees that counselors and teachers of all students could also benefit from this inservice training, the Secretary does not believe it is appropriate to require inservice training beyond that required in the Act.

Changes: None.

Comments: Two commenters recommended that the word "counselors" be clarified to refer to "appropriately credentialed, professional counselors" to ensure that the personnel who participate in the training programs have already received professional certification as counselors. The commenters stated that this change would enable professional counselors to be trained to apply their skills in specific ways so that appropriate students are recruited and complete the tech-prep education programs and are then placed in appropriate employment.

Discussion: The Secretary does not agree that inservice training provided by projects funded under this priority should be restricted only to personnel who have already been credentialed as counselors. It is not within the scope of this notice to require that counselors meet certain professional standards in order to participate in training programs. The State or private school has the responsibility for establishing whether counselors who participate are qualified. Therefore, the Secretary defers to the definition of counselor offered by individual States or private schools.

Changes: None.

Comments: Three commenters recommended that one or more grants be set aside for projects focusing on tech-prep education programs that prepare students for health occupation careers. Two of the commenters cited a need to improve the health care of children; one of the commenters stressed the need to address the growing health problems of the elderly.

Discussion: The Secretary agrees that there is a pressing need to address the health care problems of children and the elderly, but does not feel that this competition should give preference to, or set aside funds for, projects focusing on any specific occupational areas. Although the Secretary hopes that the model tech-prep education projects will reflect a variety of career areas, the goal of the program is to identify, evaluate, and promote the replication of successful strategies or techniques for tech-prep education programs in general. The Secretary believes that all occupational areas will benefit from the funding of model tech-prep education projects, regardless of the specific occupational areas in which the model projects provide technical preparation.

Changes: None.

Required Activities

Comments: One commenter recommended that dissemination activities be directed to postsecondary institutions as well as to school districts. Another commenter recommended broadening the provisions for disseminating results and providing resources, materials, technical assistance, and inservice training to include parents and advocacy organizations.

Discussion: The Secretary agrees that dissemination activities should be directed to both secondary and postsecondary sources and fully expects both types of entities to be recipients of information regarding successful tech-prep programs. Although section 420(a)(3) of the Perkins Act only specifies the dissemination of information to other school districts through the National Diffusion Network (NDN), NDN's range of assistance is much broader than local school districts and includes public and private schools, colleges, and other educational institutions. Since both secondary and postsecondary entities and personnel are needed to carry out tech-prep education programs, the Secretary believes that paragraph (a) of the "Required Activities" section will result in dissemination to both secondary and postsecondary audiences.

The Secretary agrees that parents and advocacy organizations could benefit as well from these dissemination activities. Nothing in the priority notice would prevent a project from disseminating information to these and other groups.

Changes: None.

Comments: One commenter proposed expanding the activities that can be funded to include counseling enhancements, promotional activities, and parent and business community involvement. The commenter indicated that implementing integrated approaches cannot be developed in

isolation and that all affected parties need to be involved in their development. The commenter also said that support components such as promotion and counseling efforts should be included in implementation activities.

Discussion: The Secretary agrees that the design of integrated curricula and courses should involve more than the educational community and that others, such as parents and employees, should participate in developing integrated programs. The Secretary notes that the "Required Activities" section of the notice specifies that projects are to provide resources, materials, technical assistance, inservice training, and other forms of professional development to help others replicate successful tech-prep education programs. Since this competition is designed to elicit ideas for programs that can serve as models, the Secretary prefers to leave certain details of what integrated curricula should include and who should be involved in project activities up to the creativity of the applicants.

Changes: None.

Comments: One commenter expressed a concern for the timeliness of collecting data on student outcomes following completion of a tech-prep education program. The commenter recommended that this evaluation be conducted over a span of three to five years.

Discussion: The Secretary agrees that evaluation data will need to span a number of years in order to provide reliable information on how well these four-year programs work. Because of the requirement that projects be based on successfully designed, established, and currently operating model tech-prep education programs, the Secretary anticipates that substantial data already exist regarding the success of some of these programs and that evaluation activities for some projects may need to focus only on refining existing data or collecting additional data that can be summarized and submitted to the Department's Program Effectiveness Panel. Regardless of the length of time a program has been in operation, student outcome data annually collected by projects should be examined to assess student outcomes.

Changes: None.

Selection Criteria

Comments: One commenter recommended amending the selection criteria to provide for characteristics that will strengthen models, enhance American competitiveness, and create more options for students, including—(1) direct and significant involvement of employers; (2) acquisition of skills over and beyond traditional associate degree programs; and (3) multiple entry and exit points for students.

Discussion: The Secretary believes that the characteristics suggested by the commenter are more restrictive than the requirements of the State-Administered Tech-Prep Education Program, for which this priority is to provide models. Projects may include these characteristics, however, if they meet their needs.

Changes: None.

Comments: One commenter recommended clarifying that models do not have to create new applied academics and that many consortia are integrating existing applied academics courses into their tech-prep programs. The commenter stated that integrating existing applied academics courses is both efficient and appropriate in many instances and that specifying that these models are allowable will help ensure a variety of approaches.

Discussion: While the Secretary agrees that model tech-prep education projects do not have to create new applied academics to be considered creative or innovative in how they are integrating vocational and academic learning, the Secretary believes that the current language of the criterion reflects the commenter's recommendation and requires no change.

Changes: None.

Comments: Three commenters recommended that the selection criteria be much more specific regarding the content, structure, and scope of vocational and academic learning integration, the type of skills that should be integrated, and the types of models that might be supported under this priority.

Discussion: The Secretary believes that the priority and criteria are already fairly specific. However, since this competition is designed to elicit ideas for programs that can serve as models, the Secretary prefers to leave certain details up to the creativity of the applicants

Changes: None.

Comments: Two commenters expressed concern about the extent to which projects must serve special populations. One commenter stated that section 420(b)(3) of the Act requires each project to serve individuals who are members of special populations and that the language of the selection criteria did not reflect this requirement.

Discussion: The Secretary does not agree that section 420(b) of the Act imposes requirements applicable to the individual projects supported under this program. On the contrary, section 420(b) requires that the Secretary consider certain factors when selecting applications for funding, in order to ensure that the projects supported under this program together, for example, offer significantly different approaches to integrating curricula within tech-prep education programs. In order to ensure that applications are funded that together serve the populations or groups listed in section 420(b) (3) and (4) of the Act and section (a)(3) of the selection criteria in this notice, the Secretary will consider the factors under section 420(b) of the Act, pursuant to 34 CFR 75.217(d)(3), and will select applications for funding so as to achieve the requirements of the statute.

Changes: None.

Comments: One commenter recommended expanding the student population groups to be served by projects to include general education students in addition to vocational education students at the secondary level. The commenter pointed out that, while the integration of vocational and academic learning programs enhances learning opportunities for vocational students, general education students can gain equally or more from these integrated efforts.

Discussion: The priority for this program limits the types of projects that can be funded under this competition to those that demonstrate tech-prep education programs. There are no restrictions on the types of students who can enroll in tech-prep education programs.

Changes: None.

Comments: One commenter expressed the concern that relying on the empirical data specified in criterion (b)—educational significance—may lead to the presentation of evaluation claims too early in many newly operating tech-prep programs. The commenter asked that other data be taken into account to demonstrate program success, including the extent and nature of changes in course content, offerings, and curriculum pathways; linkages between secondary and postsecondary levels; changes in teaching and counseling strategies and methodologies; project product availability and use; and attitudinal changes on the part of students, teachers, counselors, administrators, and parents.

Discussion: In relying on factors such as student performance and achievenment, high school graduation, transfer of students to postsecondary education programs, and placement of students in jobs, the Secretary is using fairly common and easily recognizable benchmarks for measuring program success. These factors also lend themselves more easily to the type of

data that projects will need to present for review by the Department's Program Effectiveness Panel. Although applicants may present other information to demonstrate program success in addition to student achievement, completion, and placement rates, the emphasis of evaluation should be on the production of quantifiable data.

Changes: None.

Comments: One commenter recommended clarifying the parameters for measuring "success through evidence of student achievement, completion, and placement rates" to ensure that applicants share common definitions and units of measures. Another commenter suggested focusing on performance-based student outcomes and data that show the basic and advanced skills that have been mastered.

Discussion: Although there might be some benefit in requiring all applicants to share common definitions and units of measures in presenting student outcome data, the goal of the program is to demonstrate the success of individual tech-prep education projects, not to provide a basis for evaluating the program as a whole. The factors identified in selection criterion (b)—educational significance—represent fairly common and easily recognizable benchmarks for measuring project success.

Changes: None.

Absolute Priority

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

In order to provide models for programs to be developed and funded under the State-Administered Tech-Prep Education Program (Title III, Part E, of the Perkins Act), applications must demonstrate model tech-prep education programs, as defined in section 347 of the Perkins Act, that—

(a) Are based on successfully designed, established, and operating tech-prep education programs; and

(b) Meet the requirements for funding under title III, part E, of the Perkins Act.

In order to be funded under title III, part E, of the Perkins Act, a tech-prep program must—

(1) Be carried out under an articulation agreement between the secondary and postsecondary participants in the project. "Articulation agreement" means a commitment to a program designed to provide students with a non-duplicative sequence of progressive achievement leading to competencies in a tech-prep education program;

(2) Consist of the two years of secondary school preceding graduation and two years of higher education, or an apprenticeship program of at least two years following secondary instruction, with a common core of required proficiency in mathematics, science, communications, and technologies designed to lead to an associate arts degree or certificate in a specific career field;

(3) Include the development of tech-prep education program curricula appropriate to the needs of the secondary and postsecondary participants;

(4) Include inservice training for teachers that—

(A) Is designed to train teachers to effectively implement tech-prep education curricula;

(B) Provides for joint training for teachers from all secondary and postsecondary participants; and

(C) May provide this training in weekend, evening, and summer sessions, institutes, or workshops;

(5) Include training programs for counselors designed to enable counselors to more effectively—

(A) Recruit students for tech-prep education programs;

(B) Ensure that these students successfully complete the programs; and

(C) Ensure that these students are placed in appropriate employment;

(6) Provide equal access to the full range of technical preparation programs to individuals who are members of special populations, including the development of tech-prep education program services appropriate to the needs of such individuals; and

(7) Provide for preparatory services that assist all populations.

Required Activities

The Secretary further requires that may project funded under this competition must—

(a) Disseminate its results in a manner designed to provide information on integration of vocational and accademic learning to improve the training of teachers, other instructional personnel, counselors, and administrators who are needed to carry out tech-prep programs;

(b) Provide resources, materials, technical assistance, inservice training, and other forms of professional development to help others replicate successful tech-prep education programs;

(c) Provide, and budget for, an independent evaluation of grant activities. The evaluation must—

(1) Include activities during the formative states of the project to help guide and improve the project, as well as a summative evaluation that includes recommendations for replicating project activities and results;

(2) Be based on student achievement, completion, and placement rates, and the effectiveness of disseminating information and materials produced by the project to appropriate audiences; and

(3) Provide a summary of evaluation activities and results that the grantee shall submit to the Secretary for review by the Department's Program Effectiveness Panel; and

(d) Expend on Federal funds received under this program for equipment, as defined in 34 CFR 74.132 and 34 CFR 80.3.

Criteria for Evaluating Applications

For the FY 1992 grant competition under the Demonstration Project for the Integration of Vocational and Academic Learning Program (Model Tech-Prep Education Projects), the Secretary will use the following selection criteria and assign points to the selection criteria as indicated:

(a) *Program factors.* (15 points) The Secretary reviews each application to assess the quality of the proposed project including—

(1) The extent to which the project provides a model for programs to be funded under the State-Administered Tech-Prep Education Program;

(2) The extent to which the project involves creative or innovative methods for integrating vocational and academic learning; and

(3) The extent to which the project will serve—

(i) Individuals who are members of special populations;

(ii) Vocational students in secondary schools and at postsecondary institutions;

(iii) Individuals enrolled in adult programs; or

(iv) Single parents, displaced homemakers, and single pregnant women.

(b) *Educational significance.* (15 points) The Secretary reviews each application to determine the extent to which the applicant—

(1) Bases the proposed project on successfully designed, established, and currently operating model tech-prep education programs that include components similar to the components required by this program, as evidenced by empirical data from those programs in such factors as—

(i) Student performance and achievement;

(ii) High school graduation;

(iii) Successul transfer of students to a variety of postsecondary education programs at the completion of the tech-prep education programs; and

(iv) Placement of students in jobs, including military service, at the completion of the tech-prep education programs;

(2) Proposes project objectives that contribute to the improvement of education; and

(3) Proposes to use unique and innovative techniques that address the need to integrate vocational and academic learning, and produce benefits that are of national significance.

(c) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the project design, especially the establishment of measurable objectives for the project that are based on the projects overall goals;

(2) The extent to which the plan of management is effective and ensures proper and efficient administration of the project over the award period;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(5) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disability.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the project's evaluation plan, including the extent to which the plan—

(1) Carries out the requirements for an independent evaluation;

(2) Is clearly explained and is appropriate to the project;

(3) To the extent possible, is objective and will produce data that are quantifiable;

(4) Includes quality measures to assess the effectiveness of the curriculum developed by the project;

(5) Identifies expected outcomes of the participants and how those outcomes will be measured;

(6) Includes activities during the formative stages of the project to help guide and improve the project, as well as a summative evaluation that includes recommendations for replicating project activities and results;

(7) Will provide a comparison between intended and observed results, and lead to the demonstration of a clear link between the observed results and the specific treatment of project participants; and

(8) Will yield results that can be summarized and submitted to the Secretary for review by the Department's Program Effectiveness Panel.

(e) *Demonstration and dissemination.* (15 points) The Secretary reviews each application for information to determine the effectiveness and efficiency of the plan for demonstrating and disseminating information about project activities and results throughout the project period, including—

(1) High quality in the design of the dissemination plan and procedures for evaluating the effectiveness of the dissemination plan;

(2) Identification of the audience to which the project activities will be disseminated and provisions for publicizing the project at the local, State, and national levels by conducting, or delivering presentations at, conferences, workshops, and other professional meetings and by preparing materials for journal articles, newsletters, and brochures;

(3) Provisions for demonstrating the methods and techniques used by the project to others interested in replicating these methods and techniques, such as by inviting them to observe project activities;

(4) A description of the types of materials the applicant plans to make available to help others replicate project activities and the methods for making the materials available; and

(5) Provisions for assisting others to adopt and successfully implement the methods, approaches, and techniques developed by the project.

(f) *Key personnel.* (10 points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications, in relation to project requirements, of the project director;

(ii) The qualifications, in relation to project requirements, of each of the other key personnel to be used in the project;

(iii) The appropriateness of the time that each person referred to in paragraphs (f)(1) (i) and (ii) will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability.

(2) To determine personnel qualifications under paragraphs (f)(1) (i) and (ii), the Secretary considers—

(i) The experience and training of key personnel in project management and in fields related to the objectives of the project; and

(ii) Any other qualifications of key personnel that pertain to the quality of the project.

(g) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which the budget—

(1) Is cost effective and adequate to support the project activities;

(2) Contains costs that are reasonable and necessary in relation to the objectives of the project; and

(3) Proposes using non-Federal resources available from appropriate employment, training, and education agencies in the State to provide project services and activities and to acquire project equipment and facilities, to ensure that funds awarded under this part are used to provide instructional services.

(h) *Adequacy of resources and commitment.* (5 points)

(1) The Secretary reviews each application to determine the extent to which the applicant plans to devote adequate resources to the project. The Secretary considers the extent to which—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(2) The Secretary reviews each application to determine the commitment to the project, including whether the—

(i) Uses of non-Federal resources are adequate to provide project services and activities, especially resources of community organizations and State and local educational agencies; and

(ii) Applicant has the capacity to continue, expand, and build upon the project when Federal assistance under this part ends.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early

notification of the Department's specific plans and actions for this program.

Program Authority: 20 U.S.C. 2420.

(Catalog of Federal Domestic Assistance Number 84.248 Demonstration Projects for the Integration of Vocational and Academic Learning Program)

Dated: May 18, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92-12144 Filed 5-22-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.248]

Demonstration Projects for the Integration of Vocational and Academic Learning Program (Model Tech-Prep Education Projects); Inviting Applications for New Awards for Fiscal Year (FY) 1992

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: The Demonstration Projects for the Intergration of Vocational and Academic Learning Program provides financial assistance to projects that develop, implement, and operate programs using different models of curricula that integrate vocational and academic learning. The Secretary wishes to highlight for potential applicants that this program helps further the purposes of AMERICA 2000, the President's education strategy to help America move itself toward the National Education Goals. The integration of vocational and academic learning directly supports National Education Goal 5—ensuring that every adult American will be literate and possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible Applicants: Institutions of higher education, area vocational education schools, secondary schools funded by the Bureau of Indian Affairs, State boards of vocational education, public or private nonprofit organizations, local education agencies, and consortia composed of these entities.

Deadline for Transmittal of Applications: June 25, 1992.

Deadline for Intergovernmental Review: August 24, 1992.

Available Funds: $4,469,831.

Estimated Range of Awards: $200,000–$400,000.

Estimated Average Size of Awards: $297,989.

Estimated Number of Awards: 15.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

Applicable Regulations:

The Education Department General Administrative Regulations (EDGAR) as follows:

(a) 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations).

(b) 34 CFR Part 75 (Direct Grant Programs).

(c) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(d) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(e) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(f) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(g) 34 CFR Part 82 (New Restrictions on Lobbying).

(h) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Durg-Free Workplace (Grants)).

(i) 34 CFR Part 86 (Drug-Free Schools and Campuses).

Priority: The priority in the Notice of Final Priority, Required Activities, and Selection Criteria for this program, as published elsewhere in theis issue of the **Federal Register**, applies to this competition.

Under 34 CFR 75.105(c)(3), the Secretary funds under this competition only applications that meet this absolute priority.

Selection Criteria: For the FY 1992 grant competition (for awards to be made in FY 1992 using FY 1991 funds) under the Demonstration Projects for the Integration of Vocational and Academic Learning Program (Model Tech-Prep Education Projects), the Secretary uses the selection criteria in the Notice of Final Priority, Required Activities, and Selection Criteria for this competition published elsewhere in this issue of the **Federal Register.**

Intergovernmental Review of Federal Programs: This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on April 2, 1992 (57 FR 11354).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed to the following address: The Secretary, E.O. 12372—CFDA #84.248. U.S. Department of Education, room 4161, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Instructions for Transmittal of Applications:

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and six copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.248), Washington, DC 20202–4725.

or

(2) Hand deliver the original and six copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education,

Application Control Center, Attention: (CFDA# 84.248), room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms: To apply for an award under this program competition, your application must be organized in the following order and include the following five parts:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)).

Part II: Budget Information.

Part III: Budget Narrative.

Part IV: Program Narrative.

Part V: Additional Assurances and Certifications:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certification regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and Instructions.

c. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and Instructions. (NOTE: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

d. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and Instructions, and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

All forms and instructions are included as appendix A of this notice. Questions and answers pertaining to this program are included, as appendix B, to assist potential applicants.

All applicants must submit ONE original signed application, including ink signatures on all forms and assurances and SIX copies of the application. Please mark each application as original or copy. Local or State agencies may choose to submit two copies with the original.

No grant may be awarded unless a complete application form has been received. (20 U.S.C. 1241–1391)

For Further Information Contact: Richard F. DiCola, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4512—MES), Washington, DC 20202–7242. Telephone (202) 732–2362. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 2420.

Dated: May 18, 1992.

Betsy Brand,

Assistant Secretary, Office of Vocational and Adult Education.

BILLING CODE 4000-01-M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M. Profit Organization
G. Special District N. Other (Specify): _____

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 2 4 8

TITLE: Demonstration Projects for Integration of Vocational and Academic Learning (Model Tech-Prep Education Projects)

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	A	B	C
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Costs/Stipends			
11. TOTAL, Federal Funds Requested (lines 8 through 10)			

SECTION B - Cost Sharing Summary (if appropriate)

	A	B	C
1. Cash Contribution			
2. In-Kind Contribution (only costs specifically for this project)			
3. TOTAL, Cost Sharing (Rate %)			

NOTE: For FULLY-FUNDED PROJECTS use Column A to record the first 12-month budget period; Column B to record the remaining months of the project; and Column C to record the total.

For MULTI-YEAR PROJECTS use Column A to record the first 12-month budget period; Column B to record the second 12-month budget period; and Column C to record the third 12-month budget period.

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. Personnel: Show salaries to be paid to project personnel.

2. Fringe Benefits: Indicate the rate and amount of fringe benefits.

3. Travel: Indicate the amount requested for both inter- and intra-State travel of project staff. Include funds for at least one trip for two people to attend a project director's meeting in Washington, D.C.

4. Equipment: Indicate the cost of non-expendable personnel property that has a useful life of more than one year and a cost of $300 or more per unit ($5,000 or more if State, Local, or Tribal Government).

5. Supplies: Include the cost of consumable supplies and materials to be used during the project.

6. Contractual: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts.

7. Other: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.

8. Total, Direct Cost: Show the total for lines 1 through 7.

9. Indirect Costs: Indicate the rate and amount of indirect costs. NOTE: For training grants, the indirect cost rate cannot exceed 8%.

10. Training/Stipend Cost: (if allowable)

11. TOTAL, Federal Funds Requested: Show total for lines 8 through 10.

SECTION B - Cost Sharing Summary

Indicate the actual rate and amount of cost sharing when there is a cost sharing requirement. If cost sharing is required by program regulations, the local share required refers to a percentage of TOTAL PROJECT COST, not of Federal funds.

BILLING CODE 4000-01-C

Instructions for Part III—Budget Narrative

The budget narrative should explain, justify, and, if needed, clarify your budget summary. For each line item (personnel, fringe benefits, travel, etc.) in your budget, explain why it is there and how you computed the costs.

Plaese limit this section to no more than five pages. Be sure that each page of your application is numbered consecutively.

Instructions for Part IV—Program Narrative

The program narrative will comprise the largest portion of your application. This part is where you spell out the who, what, when, where, why, and how of your proposed project.

Although you will not have a form to fill out for your narrative, there is a format. This format is the selection criteria. Because your application will be reviewed and rated by a review panel on the basis of the selection criteria, your narrative should follow the order and format of the criteria.

Before preparing your application, you should carefully read the legislation and regulations of the program, eligibility requirements, information on any priority set by the Secretary, and the selection criteria for this competition.

Your program narrative should be clear, concise, and to the point. Begin the narrative with a one page abstract or summary of your proposed project. Then describe the project in detail, addressing each selection criterion in order.

The Secretary strongly requests you limit the program narrative to no more than 30 double-spaced, typed pages (on one side only), although the Secretary will consider your application if it is longer. Be sure to number consecutively, ALL pages in your application.

You may include supporting documentation as appendices. Be sure that this material is concise and pertinent to this program competition.

You are advised that:

(a) The Department considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (EDGAR Sec. 75.217)

(b) The technical review panel evaluates each application solely on the basis of the established technical review criteria. Letters of support contained in the application will strengthen the application only insofar as they contain commitments which pertain to the established technical review criteria, such as commitment and resources.

Additional Materials:

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 90 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project, OMB 1830–0516, Washington, DC 20503. (Information collection approved under OMB control number 1830–0516. Expiration date: 6/30/92.)

BILLING CODE 4000-01-M

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 124B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0346-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:	13. Type of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply)*: ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____

Federal Use Only:	Authorized for Local Reproduction Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

BILLING CODE 4000-01-C

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Standard Form - LLL-A

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants the Department has assembled the following most commonly asked questions.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Our new policy calls for an original and six copies to be submitted. The binding of applications is optional.

Q. We just missed the deadline for the XXX competition. May we submit under another competition?

A. Yes, however, the likelihood of success is not good. A properly prepared application must meet the requirements of the competition to which it is submitted.

Q. I'm not sure which competition is most appropriate for my project. What should I do?

A. We are happy to discuss any questions with you and provide clarification on the unique elements of the various competitions.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand that this previous preapplication consultation is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months of the application closing date, depending on the number of applications received and the number of competitions with closing dates at about the same time.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the review with anyone.

Q. Will my application be returned if I am not funded?

A. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. Is travel allowed under these projects?

A. Travel associated with carrying out the project is allowed. Because we will request the project directors of funded projects to attend an annual project directors meeting, you should include a trip (or two, if you propose a project period of more than 12 months) to Washington, DC in the travel budget. Travel to conferences is sometimes allowed when it is for purposes of dissemination.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications and other relevant factors, determines the applications that can be funded.

Q. What happens during negotiations?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because there is inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all negotiation issues have been resolved.

Q. How do I provide an assurance?

A. Except for SF–424B, "Assurances—Non-Construction Programs," simply state in writing that you are meeting a proscribed requirement.

Q. Where can copies of the **Federal Register**, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to: Sueprintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783–3238. When requesting copies of regulations or statutes, it is helpful to use the specific name, public law number, or part number. The material referenced in this notice should be referred to as follows:

(1) Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act) (Public Law 101–392, 104 Stat. 753 (1990)).

(2) Education Department General Administrative Regulations, 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Q. What are the Department of Education's Program Effectiveness Panel and National Diffusion Network?

A. The Program Effectiveness Panel (PEP) is the Department of Education's primary mechanism for validating the effectiveness of educational programs developed by schools, universities, and other agencies. The National Diffusion Network (NDN) is a Federally funded dissemination system that helps public and private schools, colleges, and other educational institutions improve by sharing successful education programs, products, and processes.

Regulations governing PEP and NDN are codified at 34 CFR parts 785–789. For information about PEP, prospective applicants may wish to read Making the Case: Evidence of Effectiveness in Schools and Classrooms, which contains criteria and guidelines for submitting project results to PEP. This publication, as well as information about NDN, is available from the U.S. Department of Education's Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Washington, DC 20208–5645. Telephone: (202) 219–2134.

[FR Doc. 92–12145 Filed 5–22–92; 8:45 am]
BILLING CODE 4000–01–M

federal register

Tuesday
May 26, 1992

Part V

The President

Federal Register

Tuesday
May 26, 1992

Federal Register
Vol. 57, No. 101
Tuesday, May 26, 1992

Presidential Documents

Title 3—

The President

Proclamation 6442 of May 21, 1992

Prayer for Peace Memorial Day, 1992

By the President of the United States of America

A Proclamation

Summer might well be described as the season of liberty—during this delightful time of year, millions of schoolchildren enjoy a welcome respite from the classroom while their parents and countless other Americans plan and participate in family vacations, Fourth of July picnics, and other activities that remind us of how very fortunate we are to live in this great land of freedom and opportunity. Thus, it is fitting that before we Americans celebrate the arrival of summer, we set aside a special day in honor of all those brave and selfless individuals who have died to defend our freedom and security. The peace, liberty, and prosperity with which we are blessed would not have been possible without their great sacrifices, and on Memorial Day we remember each of them with solemn pride and gratitude.

Whether we observe the occasion through public ceremony or through private prayer, Memorial Day leaves few hearts unmoved. Each of the patriots whom we remember on this day was first a beloved son or daughter, a brother or sister, or a spouse, friend, and neighbor. Each had hopes, plans, and dreams not unlike our own. The loss of these Americans—indeed, the loss of any human life to war—fills us with sorrow and with strengthened resolve to work for peace.

Yet it would be a great injustice to our fallen service members to observe the day solely as one of mourning. Henry Ward Beecher may have explained it best when he said:

> They that die for a good cause are redeemed from death . . . . Are they dead that yet move upon society and inspire the people with nobler motives and more heroic patriotism? Ye that mourn let gladness mingle with your tears. It was your son, but now he is the Nation's. He made your household bright; now his example inspires a thousand households.

The men and women who gave their lives in service to our country were dedicated to the worthy cause of freedom, and not one of them died in vain. From colonial America to the Persian Gulf, from places such as the Argonne to Normandy, Inchon, and Da Nang—they fought and sacrificed so others might live in peace, free from the fear of tyranny and aggression. On this Memorial Day, our hearts should swell with thankfulness and pride as we reflect on our Nation's enduring heritage of liberty under law and on the continuing expansion of democratic ideals around the globe.

Today, inspired by the selfless actions and by the noble legacy of our Nation's war dead, let us rededicate ourselves to the unfinished work of which President Lincoln spoke at Gettysburg. Let us renew our determination to promote respect for human rights and the rule of law, and let us pray for fortitude and discernment as we go about that unending task.

The Congress, by a joint resolution approved on May 11, 1950 (64 Stat. 158), has requested the President to issue a proclamation calling on the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the people of the United States might unite in prayer.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby designate Memorial Day, May 25, 1992, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11 o'clock in the morning of that day as a time to unite in prayer. I urge the members of the media to cooperate in this observance.

I also request the Governors of the United States and the Commonwealth of Puerto Rico, and the appropriate officials of all units of government, to direct that the flag be flown at half-staff until noon during this Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control. I also request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of May, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.

George Bush

[FR Doc. 92-12375
Filed 5-22-92; 10:21 am]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 92–23 of April 27, 1992

Military Drawdown for Israel

Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to section 599B of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513) (the "Act") and section 118 of H.J. Res. 456, the Joint Resolution making further continuing appropriations for the fiscal year 1992, and for other purposes (Public Law 102–266), I hereby:

(1) direct the drawdown for Israel of an estimated $47 million in defense articles from the stocks of the Department of Defense and defense services of the Department of Defense;

(2) determine that providing the full value in drawdown authorized during fiscal year 1992 would have an adverse impact on the readiness of the Armed Forces of the United States; and

(3) delegate to the Secretary of Defense the notification and reporting functions contained in subsections 599B(c) and (d) of the Act.

The Secretary of State is authorized and directed to publish this memorandum in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, April 27, 1992.

[FR Doc. 92–12396
Filed 5–22–92; 11:06 am]
Billing code 3195–01–M

Presidential Documents

Presidential Determination No. 92–25 of May 6, 1992

Determination Under Section 402(c)(2)(A) of the Trade Act of 1974, as Amended—Azerbaijan, Georgia, Kazakhstan, Moldova, Ukraine, and Uzbekistan

Memorandum for the Secretary of State

Pursuant to section 402(c)(2)(A) of the Trade Act of 1974, as amended (the "Act") (19 U.S.C. 2432(c)(2)(A)), I determine that a waiver by Executive order of the application of subsections (a) and (b) of section 402 of the Act with respect to Azerbaijan, Georgia, Kazakhstan, Moldova, Ukraine, and Uzbekistan will substantially promote the objectives of section 402.

You are authorized and directed to publish this determination in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, May 6, 1992.

[FR Doc. 92–12397
Filed 5–22–92; 11:07 am]
Billing code 3195–01–M

Editorial note: For the President's memorandum and his message to Congress on trade with these former Soviet Republics, see page 782 of the *Weekly Compilation of Presidential Documents.*

federal register

Tuesday
May 26, 1992

Part VI

Office of Management and Budget

Improving the Management and Use of Government Aircraft; Notice

OFFICE OF MANAGEMENT AND BUDGET

Improving the Management and Use of Government Aircraft

AGENCY: Office of Management and Budget, General Management Division.

ACTION: Final Revision to OMB Circular No. A–126, "Improving the Management and Use of Government Aircraft."

SUMMARY: This revision implements the Office of Management and Budget's (OMB's) stated intention to revise OMB Circular No. A–126 "Improving the Management and Use of Government Aircraft," dated January 18, 1989. The Circular contains guidance to the Federal agencies on acquiring, managing, using, accounting for the costs of, and disposing of aircraft.

DATE: The revised Circular is effective immediately.

FOR FURTHER INFORMATION CONTACT: Jack Kelly, Federal Services Branch, General Management Division, Office of Management and Budget, 725 17th Street, N.W., Room 10202, Washington, D.C. 20503 (telephone: (202) 395–5090).

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** on February 27, 1992 (57 FR 6750) requesting comments on proposed revisions to OMB Circular No. A–126 "Improving the Management and Use of Government Aircraft," dated January 18, 1989.

Interested parties were invited to submit comments. Comments were received from five agencies, an interagency committee of agency aircraft policy officials, a private aircraft management and leasing company, an association of aircraft mapping contractors, and a U.S. Senator. All comments received were considered in developing this final revision, as well as relevant recommendations contained in recent reports on government aircraft activities by the General Accounting Office and several Departmental Inspectors General.

Attached to this notice is a revised Circular A–126 for inclusion in the **Federal Register.** The notice is signed by the Deputy Director for Management.

Frank Hodsoll,

Deputy Director for Management.

Dated: May 22, 1992.

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Improving the Management and Use of Government Aircraft

1. **Purpose.** This Circular is being issued to minimize cost and improve the management and use of government aviation resources. It prescribes policies to be followed by Executive Agencies in acquiring, managing, using, accounting for the costs of, and disposing of aircraft.

2. **Authority.** This Circular is issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; Executive Order 11541; and 31 U.S.C. 1344.

3. **Background.** The Office of Management and Budget has concluded that the government-wide policy guidance with respect to the use of government aircraft should be clarified to restrict the operation of government aircraft to defined official purposes; restrict travel on such aircraft; require special review of such travel on government aircraft by senior officials or non-Federal travelers in circumstances described hereafter; and codify policies for reimbursement for the use of government aircraft.

4. **Scope and Coverage.** This Circular applies to all government-owned, leased, chartered and rental aircraft and related services operated by Executive Agencies except for aircraft while in use by or in support of the President or Vice President.

5. **Definitions.** For purposes of this Circular, the following definitions apply.

a. *Government aircraft* means any aircraft owned, leased, chartered or rented and operated by an Executive Agency.

b. *Mission requirements* means activities that constitute the discharge of an agency's official responsibilities. Such activities include, but are not limited to, the transport of troops and/or equipment, training, evacuation (including medical evacuation), intelligence and counter-narcotics activities, search and rescue, transportation of prisoners, use of defense attache-controlled aircraft, aeronautical research and space and science applications, and other such activities. For purposes of this Circular, mission requirements do not include official travel to give speeches, to attend conferences or meetings, or to make routine site visits.

c. *Official travel* means (i) travel to meet mission requirements, (ii) required use travel, and (iii) other travel for the conduct of agency business.

d. *Required use* means use of a government aircraft for the travel of an Executive Agency officer or employee, where the use of the government aircraft is required because of bona fide communications or security needs of the agency or exceptional scheduling requirements.

e. *Senior Federal officials* are persons:

(i) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5 of the U.S. Code;

(ii) employed in a position in an Executive Agency, including any independent agency, at a rate of pay payable for level I of the Executive Schedule or employed in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule;

(iii) employed in a position in an Executive Agency that is not referred to in clause (i) (other than a position that is subject to pay adjustment under Section 1009 of Title 37 of the U.S. Code) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5304 of title 5 of the U.S. Code (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for the Senior Executive Service under Section 5382 of title 5 of the U.S. Code; or

(iv) appointed by the President to a position under section 105(a)(2)(A), (B), or (C) of title 3 of the U.S. Code or by the Vice President to a position under section 106(a) (1) (A), (B), or (C) of title 3 of the U.S. Code.

Generally, these are persons employed by the White House and executive agencies, including independent agencies, at a rate of pay equal to or greater than the minimum rate of basic pay for the Senior Executive Service. Exempted from this definition, for purposes of this Circular, are active duty military officers.

f. *Full coach fare* means a coach fare available to the general public between the day that the travel was planned and the day the travel occurred.

g. *Actual cost* means all costs associated with the use and operation of an aircraft. (See Attachment A for detailed definition.)

6. **Acquisition and Management.**

a. The number and size of aircraft acquired by an agency and the capacity of those aircraft to carry passengers and cargo shall not exceed the level necessary to meet the agency's mission requirements.

b. Agencies must comply with OMB Circular No. A–76 before purchasing, leasing or otherwise acquiring aircraft and related services to assure that these services cannot be obtained from and operated by the private sector more cost effectively.

c. Agencies shall review periodically the continuing need for all of their

aircraft and the cost effectiveness of their aircraft operations in accordance with the requirements of OMB Circular No. A–76. A copy of each agency review shall be submitted to GSA when completed and to OMB with the agency's next budget submission. Agencies shall report any excess aircraft and release all aircraft that are not fully justified by these reviews.

d. Agencies shall use their aircraft in the most cost effective way to meet their requirements.

7. **Use of Government Aircraft.** Agencies shall operate government aircraft only for official purposes. Official purposes include the operation of government aircraft for (i) mission requirements, and (ii) other official travel.

8. **Travel on Government Aircraft.** Government aircraft shall only be used for (i) official travel; or (ii) on a space available basis subject to the following policies:

a. Official travel that is not also required use travel or to meet mission requirements shall be authorized only when:

(i) no commercial airline or aircraft (including charter) service is reasonably available (i.e., able to meet the traveler's departure and/or arrival requirements within a 24 hour period, unless the traveler demonstrates that extraordinary circumstances require a shorter period) to fulfill effectively the agency requirement; or

(ii) the actual cost of using a government aircraft is not more than the cost of using commercial airline or aircraft (including charter) service.

When a flight is being made to meet mission requirements or for required use travel (and is certified as such in writing by the agency which is conducting the mission as required in Section 10.b.), secondary use of the aircraft for other travel for the conduct of agency business may be presumed to result in cost savings (i.e., cost comparisons are not required).

b. Travelers may not use government aircraft on a "space available" basis unless:

(i) the aircraft is already scheduled for use for an official purpose;

(ii) such "space available" use does not require a larger aircraft than needed for the official purpose;

(iii) such "space available" use results only in minor additional cost to the government; and

(iv) reimbursement is provided as set forth in Section 9.

9. **Reimbursement for Use of Government Aircraft.**

a. **For travel that is not required use travel:**

(i) Any incidental private activities (personal or political) of an employee undertaken on an employee's own time while on official travel shall not result in any increase in the actual costs to the government of operating the aircraft.

(ii) The government shall be reimbursed the appropriate share of the full coach fare for any portion of the time on the trip spent on political activities (except as provided in subsection (d) below).

b. **For required use travel.** The government shall be reimbursed as follows (except as may otherwise be required by subsection (d)) for required use travel:

(i) For a wholly personal or political trip, the full coach fare for the trip;

(ii) For an official trip during which the employee engages in political activities, the appropriate share of the full coach fare for the entire trip;

(iii) For an official trip during which the employee flies to one or more locations for personal reasons, the excess of the full coach fare of all flights taken by the employee on the trip over the full coach fare of the flights that would have been taken by the employee had there been no personal activities on the trip.

c. **"Space available" travel.** For "space available" travel other than for the conduct of agency business, whether on mission or other flights, the government shall be reimbursed at the full coach fare except (i) as authorized under 10 U.S.C. 4744 and regulations implementing the statute; and (ii) by civilian personnel and their dependents in remote locations (i.e., locations not reasonably accessible to regularly scheduled commercial airline service).

d. In any case of political travel, reimbursement shall be made in the amount required by law or regulation (e.g., 11 C.F.R. 106.3) if greater than the amount otherwise required by the foregoing reimbursement rules.

10. **Approving the Use of Government Aircraft.** The following policies apply to the procedures under which the use of government aircraft for official travel may be approved by the agency which owns or operates the aircraft:

a. Only an agency head, or officials designated by the agency head, may approve the use of agency aircraft for official travel.

b. Whenever a government aircraft used to fulfill a mission requirement is used also to transport senior Federal officials, members of their families or other non-Federal travelers on a "space available" basis (except as authorized under 10 U.S.C. 4744 and regulations implementing that statute), the agency that is conducting the mission shall certify in writing prior to the flight that the aircraft is scheduled to perform a bona fide mission activity, and that the minimum mission requirements have not been exceeded in order to transport such "space available" travelers. In special emergency situations, an after-the-fact written certification by an agency is permitted.

c. Agencies that use government aircraft shall report semi-annually to GSA each use of such aircraft for non-mission travel by senior Federal officials, members of the families of such officials, and any non-Federal travelers (except as authorized under 10 U.S.C. 4744 and regulations implementing that statute). Such reports shall be in a format specified by GSA and shall list all such travel conducted during the preceding six month period. The report shall include: (i) the name of each such traveler, (ii) the official purpose of the trip, (iii) destination(s), and (iv) for travel to which Section 8.a.(ii) applies, the appropriate allocated share of the full operating cost of each trip and the corresponding commercial cost for the trip. In addition, agencies shall report a summary of these data to OMB semi-annually in a format specified by GSA. (Reports on classified trips shall not be reported to GSA but must be maintained by the agency using the aircraft and available for review as authorized.)

11. **Approving Travel on Government Aircraft.** The following policies apply to the procedures under which travel on government aircraft may be approved by the agency which sponsors the travel:

a. **General approval requirements.**—All travel on government aircraft must be authorized by the sponsoring agency in accordance with its travel policies and this Circular and, when applicable, documented on an official travel authorization. Where possible, such travel must be approved by at least one organizational level above the person(s) traveling. If review by a higher organizational level is not possible, another appropriate approval is required.

b. **Special approval requirements for required use travel.**—Use of government aircraft for required use travel must be approved in advance and in writing. A Federal officer or employee must obtain written approval for all required use travel on a trip-by-trip basis from the agency's senior legal official or his/her principal deputy, unless (1) in the case of an officer or employee who is not an agency head, the agency head has determined that all travel by the officer or employee or travel in specified categories qualifies as required use

travel, or (2) in the case of an agency head, the President has determined that all travel, or travel in specified categories, by the agency head qualifies as required use travel. Any determination by an agency head that travel by an officer or employee of that agency qualifies as required use travel must be in writing and set forth the basis for that determination. In special emergency situations, an after-the-fact written certification by an agency is permitted.

Any agency head opting to determine that travel by an officer or employee may be required use travel shall establish written standards for determining when required use travel is permitted. Such travel is not permitted unless in conformance with such written standards.

c. **Special approval requirements for travel that is not to meet mission requirements or required use travel.**— Use of government aircraft for such travel by the following categories of people must be authorized in advance and in writing:

(i) senior Federal officials;

(ii) members of families of such senior Federal officials; and

(iii) non-Federal travelers.

Such authorizations must be approved on a trip-by-trip basis and be signed by the agency's senior legal official or his/her principal deputy; or be in conformance with an agency review and approval system that has been approved by OMB. In special emergency situations, an after-the-fact written certification by an agency is permitted.

Travel by such individuals that is deemed to be official travel shall be subject to the same rules and conditions as any other official travel. Travel by such individuals that is not official travel is subject to the reimbursement requirements in Section 9.c. for "space available" travel.

12. **Documenting the Use of Government Aircraft.** All uses of government aircraft must be documented and this documentation must be retained for at least two years. At a minimum, the documentation of each use of government aircraft must include:

—the tail number of the plane used

—the date(s) used

—the name(s) of the pilot(s) and flight crew

—the purpose(s) of the flight

—the route(s) flown

—the names of all passengers

When government aircraft are used to support official travel, the documentation must also include evidence that the applicable provisions of this Circular have been satisfied.

13. **Responsibilities.**

a. All Executive Agency officials with statutory authority to procure aircraft will assure that:

(i) Their agency's internal policies and procedures for procuring aircraft and related services are consistent with the requirements of OMB Circular No. A–76.

(ii) Their agency's aircraft programs comply with the internal control requirements of OMB Circular No. A–123 and that they are included in the agency's Management Control Plan. Any material weaknesses in these programs are to be reported in the annual internal control reports to the President and the Congress.

(iii) Their agency cooperates with the General Services Administration in the development of aircraft management policies and standards and in the collection of aircraft information.

(iv) Their agency has an aircraft information system that conforms to the generic data and reporting standards developed by GSA. Agencies that do not already have systems that conform to these standards are required to implement such systems within one year from the issuance of the GSA standards.

b. The Secretaries of Defense and "the uniformed services," the Secretary of State, and the Administrator of General Services shall incorporate the applicable policies in this Circular into the travel regulations which they promulgate for uniformed service, foreign service, and civilian employees, respectively. The necessary changes to these regulations should be issued no later than 180 days from the date of this Circular.

c. The Administrator of General Services shall maintain a single coordinating office for agency aircraft management. The responsibilities of this office shall include, but not be limited to, the following:

(i) coordination of the development of effectiveness measures and standards, policy recommendations, and guidance for the procurement, operation, safety, and disposal of civilian agency aircraft;

(ii) operation of a government-wide aircraft management information system;

(iii) identification, for agencies and OMB, of opportunities: to share, transfer, or dispose of underutilized aircraft; to reduce excessive aircraft operations and maintenance costs; and to replace obsolete aircraft;

(iv) development of generic aircraft information system standards and software;

(v) other technical assistance to agencies in establishing automated aircraft information and cost accounting systems and conducting the cost analyses required by this Circular;

(vi) review of proposed agency internal aircraft policies for compliance with OMB guidance and notification to OMB of any discrepancies; and

(vii) conduct of an annual study of the variable and fixed costs of operating the different categories of government aircraft and dissemination of the results for use in making the cost comparisons required in Section 8.a.(ii) and reporting the trip costs as required in Section 10.c.

In order to carry out these responsibilities, the Administrator of General Services shall maintain an interagency aviation policy working group to advise him in developing or changing aircraft policies and information requirements.

d. Except for provisions of this Circular which specify their own implementation dates, each agency head shall issue internal agency directives to implement this Circular no later than 180 days from the date of the Circular. These internal agency directives must include all policies contained in this Circular, but may also contain additional policies unique to the agency. Responsibility for these policies shall be assigned to a senior management official who has the agency-wide authority and resources to implement them.

14. **Accounting for Aircraft Costs.** Agencies must maintain systems for their aircraft operations which will permit them to: (i) justify the use of government aircraft in lieu of commercially available aircraft, and the use of one government aircraft in lieu of another; (ii) recover the costs of operating government aircraft when appropriate; (iii) determine the cost effectiveness of various aspects of their aircraft programs; and (iv) conduct the cost comparisons required by OMB Circular A–76 to justify in-house operation of government aircraft versus procurement of commercially available aircraft services. Although agency accounting systems do not have to be uniform in their design or operation to comply with this Circular, they must accumulate costs which can be summarized into the standard Aircraft Program Cost Elements defined in Attachment B. The use of these elements to account for aircraft costs is discussed in Attachment A.

EFFECTIVE DATE: This Circular is effective on publication.

INFORMATION CONTACT: All inquiries should be addressed to the General Management Division, Office of

Management and Budget, telephone number (202) 395–5090.

Richard Darman

Director

Attachment A

ACCOUNTING FOR AIRCRAFT COSTS

The costs associated with agency aircraft programs must be accumulated to: (1) justify the use of government aircraft in lieu of commercially available aircraft, and the use of one government aircraft in lieu of another; (2) recover the costs of operating government aircraft when appropriate; (3) determine the cost effectiveness of various aspects of agency aircraft programs; and (4) conduct the cost comparisons required by OMB Circular No. A–76 to justify in-house operation of government aircraft versus procurement of commercially available aircraft services. To accomplish these purposes, agencies must accumulate their aircraft program costs into the Standard Aircraft Program Cost Elements defined in Attachment B. The remainder of this Attachment presents guidance for accomplishing each of these purposes.

Justify Use of Aircraft

The cost comparison to justify the use of a government aircraft for a proposed trip under Section 8.a.(ii) of this Circular should be made prior to authorizing the use of the aircraft for that trip. Agencies that propose to use their aircraft to support recurring travel between locations are encouraged to develop standard trip cost justification schedules. These schedules would summarize the projected costs of using one or more specific types of agency aircraft to travel between selected locations as compared to using commercial aircraft (including charter) or airline service between those locations. Comparative costs for varying passenger loads would also be shown. Agencies that chose to use this approach would be able to see at a glance the minimum number of official travelers needed to justify the use of a particular aircraft or aircraft type for a trip between locations on the schedule. Agencies that are not able to use such schedules are required to do a cost justification on a case by case basis.

To make the cost comparisons necessary to justify the use of a government aircraft, the agency must compare the actual cost of using a government aircraft to the cost of using a commercial aircraft (including charter) or airline service. The actual cost of using a government aircraft is either: (a) the amount that the agency will be charged by the organization that provides the aircraft, (b), if the agency operates its own aircraft, the variable cost of using the aircraft; or (c), if the agency is not charged for the use of an aircraft owned by another agency, the variable cost of using the aircraft as reported to it by the owning agency.

Agencies should develop a variable cost rate for each aircraft or aircraft type (i.e., make and model) in their inventories before the beginning of each fiscal year. These rates should be developed as follows:

1. Accumulate or allocate to the aircraft or aircraft type all historical costs (for the previous 12 months) grouped under the variable cost category defined in Attachment B. These costs should be obtained from the agency's accounting system.

2. Adjust the historical variable costs from Step 1 for inflation and for any known upcoming cost changes to project the new variable cost total. The inflation and escalation factors used must conform to OMB Circular No. A–76.

3. Divide the total projected variable costs of the aircraft or aircraft type by the projected annual flying hours for the aircraft or aircraft type to compute the projected variable cost or usage rate (per flying hour).

To compute the variable cost of using an agency's own aircraft for a proposed trip, multiply the variable cost rate computed in Step 3 (above) by the estimated number of flying hours for the trip. The number of flying hours should include all time required to position the aircraft to begin the trip and to return the aircraft to its normal base of operations, if no follow-on trip is scheduled. If a follow-on trip requires any repositioning time, it should be charged with that time. If one aircraft mission (i.e., a series of flights scheduled sequentially) supports multiple trips, the use of the aircraft for the total mission may be justified by comparing the actual cost of the entire mission to the commercial aircraft (including charter) or airline costs for all the component trips.

The cost of using commercial airline or aircraft services for the purpose of justifying the use of government aircraft must:

1. be the current government contract fare or price or the lowest fare or price known to be available for the trip(s) in question;

2. include, as appropriate, any differences in the costs of any additional ground or air travel, per diem and miscellaneous travel (e.g., taxis, parking, etc.), and lost employees' work time (computed at gross hourly costs to the government, including benefits) between the two options; and

3. only include costs associated with passengers on official business. Costs associated with passengers traveling "space available" may not be used in the cost comparison.

Recover Cost of Operation

Under the Economy Act of 1932, as amended, (31 U.S.C.S. 1535), and various acts appropriating funds or establishing working funds to operate aircraft, agencies are required to recover the costs of operating their aircraft for use by other agencies, other governments (e.g., state, local, or foreign), or non-official travelers. Depending on the statutory authorities under which its aircraft were obtained or are operated, an agency may use either of two methods for establishing the rates charged for using its aircraft: (1) the full cost recovery rate or (2), the variable cost recovery rate.

The *full cost recovery rate* for an aircraft is the sum of the variable and fixed cost rates for that aircraft. The computation of the variable cost rate for an aircraft or aircraft type is described under the previous paragraph "Justify Use of Aircraft." The fixed cost rate for an aircraft or aircraft type is computed as follows:

1. Accumulate from the agency's accounting system the fixed costs listed in Attachment B that are directly attributable to the aircraft or aircraft type (e.g. crew costs-fixed, maintenance costs-fixed, and aircraft lease-fixed).

2. Adjust the historical fixed costs from Step 1 for inflation and for any known upcoming cost changes to project the new fixed cost total. The inflation and escalation factors used must conform to OMB Circular No. A–76.

3. Add to the adjusted historical fixed costs amounts representing self insurance costs and the annual depreciation or replacement costs, as described in Attachment B.

4. Allocate operations and administrative overhead costs to the aircraft or aircraft type based on the percentage of total aircraft program flying hours attributable to that aircraft or aircraft type.

5. Compute a fixed cost recovery rate for the aircraft or aircraft type by dividing the sum of the projected directly attributable fixed costs (from Step 3) and the allocated fixed costs (from Step 4) by the annual flying hours projected for the aircraft or aircraft type.

To compute the full cost of using a government aircraft for a trip, add the variable cost rate for the aircraft or aircraft type to the corresponding fixed

cost rate (computed in Step 5 above) and multiply the result by the estimated number of flying hours for the trip using the proposed aircraft.

The *variable cost recovery rate* for an aircraft or aircraft type is the same as the variable cost or usage rate described under the previous paragraph "Justify Use of Aircraft." If an agency decides to base the charge for using its aircraft solely on this rate, it must recover the fixed costs of those aircraft separately from the appropriation which supports the mission for which the procurement of the aircraft was justified. In such cases, the fixed cost recovery rate may be expressed on an annual, monthly or flying hour basis.

Determine Aircraft Program Cost Effectiveness

Although cost data are not the only measures of the effectiveness of an agency's aircraft program, they can be very useful in identifying opportunities to reduce aircraft operational costs. These opportunities might include changing maintenance practices, purchasing fuel at lower costs, and the replacement of old, inefficient aircraft with aircraft that are more fuel efficient and have lower operations and maintenance costs.

The most common measures used to evaluate the cost effectiveness of various aspects of an aircraft program are expressed as the cost per flying hour or per passenger mile for certain types of aircraft costs. These measures may be developed using the Standard Aircraft Cost Elements and include, but are not limited to: maintenance costs/flying hour, fuel and other fluids cost/flying hour, accident repair costs/flying hour (or per aircraft), and variable cost/passenger mile.

The Administrator of General Services should coordinate the development of specific cost effectiveness measures with an interagency aircraft policy working group.

Justify In-House Operation

OMB Circular No. A–76, "Performance of Commercial Activities," requires Federal agencies to conduct cost comparisons of commercial activities they operate and, where appropriate, to determine the most economical way to perform the work—whether by private commercial source or using in-house government resources. The guidelines for conducting these cost comparisons are presented in the Supplement to the Circular.

Attachment B

STANDARD AIRCRAFT PROGRAM COST ELEMENT DEFINITIONS

Variable Costs

The variable costs of operating aircraft are those costs that vary depending on how much the aircraft are used. The specific variable cost elements include:

Crew costs—variable.—The crew costs which vary according to aircraft usage consist of travel expenses (particularly reimbursement of subsistence (i.e., per diem and miscellaneous expenses), overtime charges, and wages of crew members hired on an hourly or part-time basis.

Maintenance costs—variable.—Unscheduled maintenance and maintenance scheduled on the basis of flying time vary with aircraft usage and, therefore, the associated costs are considered variable costs. In addition to the costs of normal maintenance activities, variable maintenance costs shall include aircraft refurbishment, such as painting and interior restoration, and costs of or allowances for performing overhauls and modifications required by service bulletins and airworthiness directives. If they wish, agencies may consider all of their maintenance costs as variable costs and account for them accordingly. Otherwise, certain maintenance costs will be considered fixed as described in a subsequent paragraph. Variable maintenance costs include the costs of:

Maintenance labor—variable.—This includes all labor (i.e., salaries and wages, benefits, travel, and training) expended by mechanics, technicians, and inspectors, exclusive of labor for engine overhaul, aircraft refurbishment, and/or repair of major components.

Maintenance parts—variable.—This includes cost of materials and parts consumed in aircraft maintenance and inspections, exclusive of materials and parts for engine overhaul, aircraft refurbishment, and/or repair of major components.

Maintenance contracts—variable.—This includes all contracted costs for unscheduled maintenance and for maintenance scheduled on a flying hour basis or based on the condition of the part or component.

Engine overhaul, aircraft refurbishment, and major component repairs.—These are the materials and labor costs of overhauling engines, refurbishing aircraft, and/or repairing major aircraft components.

NOTE 1: In general, the flight hour cost is computed by dividing the costs for a period by the projected hours flown during the period. However, when computing the flight hour cost factor for this cost category, divide the total estimated cost for the activities in this category (e.g., overhaul, refurbishment and major repairs) by the number of flight hours between these activities.

NOTE 2: Separate cost or reserve accounts for engine overhaul, aircraft refurbishment, major component repairs, and other maintenance cost elements, may, at the agency's discretion, be identified and quantified separately for mission-pertinent information purposes. Reserve accounts are generally used when the aircraft program is funded through a working capital or revolving fund.

Fuel and other fluids.—The costs of the aviation gasoline, jet fuel, and other fluids (eg. engine oil, hydraulic fluids and water-methanol) consumed by aircraft.

Lease costs—variable.—When the cost of leasing an aircraft is based on flight hours, the associated lease or rental costs are considered variable costs.

Landing and tie down fees.—Landing fees and tie down fees associated with aircraft usage are considered variable costs. Tie down fees for storing an aircraft at its base of operations should be considered part of operations overhead, a fixed cost.

Fixed Costs

The fixed costs of operating aircraft are those that result from owning and support the aircraft and that do not vary according to aircraft usage. The specific fixed cost elements include:

Crew costs—fixed.—The crew costs which do not vary according to aircraft usage consist of salaries, benefits, and training costs. This includes the salaries, benefits, and training costs of crew members who also perform minimal aircraft maintenance. Also included in fixed crew costs are the costs of their charts, personal protective equipment, uniforms, and other personal equipment.

Maintenance costs—fixed.—This cost category includes certain maintenance and inspection activities which are scheduled on a calendar interval basis and take place regardless of whether or how much the aircraft are flown. Agencies are encouraged to simplify their accounting systems and account for all maintenance costs as variable costs. However, if they wish, agencies may account for the following costs as fixed costs:

Maintenance labor—fixed.—This includes all projected labor expended by mechanics and inspectors associated with maintenance scheduled on a calendar interval basis. This does not include variable maintenance labor or

work on items having a TBO or retirement life.

This category also includes costs associated with unallocated maintenance labor expenses, i.e., associated salaries, benefits, travel expenses and training costs. These costs should be evenly allocated over the number of the aircraft in the fleet.

Maintenance parts—fixed.—This includes all parts and consumables used for maintenance scheduled on a calendar basis.

Maintenance contracts—fixed.—This includes all contracted costs for maintenance or inspections scheduled on a calendar basis.

Lease costs—fixed.—When the cost of leasing an aircraft is based on a length of time (e.g., days, weeks, months, or years) and does not vary according to aircraft usage, the associated leased costs are considered fixed costs.

Operations overhead.—These include all costs, not accounted for elsewhere, associated with direct management and support of the aircraft program. Examples of such costs include: personnel costs (salaries, benefits, travel, uniform allowances, training, etc.) for management and administrative personnel directly responsible for the aircraft program; building and ground maintenance; janitorial services; lease or rent costs for hangers and administrative buildings and office space; communications and utilities costs; office supplies and equipment; maintenance and depreciation of support equipment; tie down fees for aircraft located on base; and miscellaneous operational support costs.

Administrative overhead.—These costs represent a pro-rated share of salaries, office supplies and other expenses of fiscal, accounting, personnel, management, and similar common services performed outside and the aircraft program but which support this program. For purposes of recovering the costs of operations, agencies should exercise their own judgement as to the extent to which aircraft users should bear the administrative overhead costs. Agencies may, for example, decide to charge non-agency users a higher proportion of administrative overhead than agency users. For purposes of A–76 cost comparisons, agencies should compute the actual administrative costs that would be avoided if a decision is made to contract out the operation under study.

Self-insurance costs.—Aviation activity involves risks and potential casualty losses and liability claims. Theses risks are normally covered in the private sector by purchasing and insurance policy. The government is self insuring; the Treasury's General Fund is charged for casualty losses and/or liability claims resulting from accidents. For the purposes of analyses, government managers will recognize a cost for "self-insurance" by developing a cost based on rates published in OMB Circular No. A–76.

Depreciation.—Depreciation represents the cost or value of ownership. Aircraft have a finite useful economic or service life. Depreciation is the method used to spread the cost of the purchase price, less residual value, over an asset's useful life. A–76 provides guidance on computing depreciation charges to be used in computing the fixed costs of an aircraft or aircraft program. Although these costs are not direct outlays in the sense of most other aircraft costs, it is important to recognize them for A–76 cost comparison purposes and when replenishing a working capital fund by recovering the full cost of aircraft operations. Depreciation costs depend on aircraft acquisition or replacement costs, useful life, and residual or salvage value. To calculate the cost of depreciation that shall be allocated to each year, subtract the residual value from the total of the acquisition cost plus any capital improvements and, then, divide by the estimated useful life of the asset.

Other Costs

There are certain other costs of the aircraft program which should be recorded but are not appropriate for inclusion in either the variable or fixed cost categories for the purposes of justifying aircraft use or recovering the cost of aircraft operations. These costs include:

Accident repair costs.—These costs include all parts, materials, equipment and maintenance labor related to repairing accidental damage to airframes or aircraft equipment. Also included are all accident investigation costs.

Aircraft costs.—This is the basic aircraft inventory or asset account used as the basis for determining aircraft depreciation charges. These costs include the cost of acquiring aircraft and accessories, including transportation and initial installation. Also included are all costs required to bring aircraft and capitalized accessories up to fleet standards.

Cost of Capital.—The cost of capital is the cost to the Government of acquiring the funds necessary for capital investments. The agency shall use the borrowing rate announced by the Department of Treasury for bonds or notes whose maturities correspond to the useful life of the asset.

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LIST OF PUBLIC LAWS

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H.R. 4774/P.L. 102–289

To provide flexibility to the Secretary of Agriculture to carry out food assistance programs in certain countries. (May 20, 1992; 106 Stat. 176; 1 page) Price: $1.00

H.J. Res. 371/P.L. 102–290

Designating May 31, 1992, through June 6, 1992, as a "Week for the National Observance of the Fiftieth Anniversary of World War II". (May 20, 1992; 106 Stat. 177; 1 page) Price: $1.00

S. 2378/P.L. 102–291

To amend title 38, United States Code, to extend certain authorities relating to the administration of veterans laws, and for other purposes. (May 20, 1992; 106 Stat. 178; 3 pages) Price: $1.00

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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1, 2 (2 Reserved)	(869-017-00001-9)	$13.00	Jan. 1, 1992
*3 (1991 Compilation and Parts 100 and 101)	(869-017-00002-7)	17.00	[1] Jan. 1, 1992
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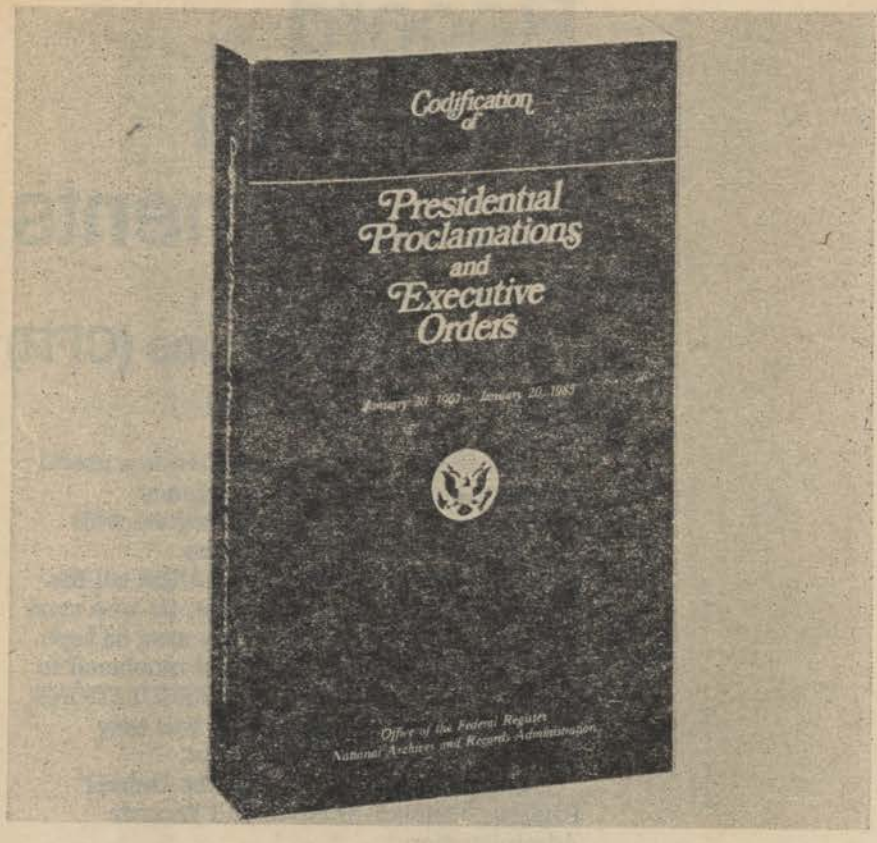

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